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NORTHERN IRELAND

Housing
(Northern Ireland)
Order 1981

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Housing (Northern Ireland) Order 1981

SI 1981/156 (NI 3)

[10th February 1981]

PART I

INTRODUCTORY

Title and commencement

1. This Order may be cited as the Housing (Northern Ireland) Order 1981 . . . *Commencement* . . .

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly. 1954 c.33

(2) In this Order—

“building regulations” means building regulations made under the Building Regulations (Northern Ireland) Order 1972 or under the Building Regulations (Northern Ireland) Order 1979; 1972 NI 19
1979 NI 11

“clearance area” means an area declared to be a clearance area under Article 32;

“closing order” means an order under Article 38;

“the Council” means the Northern Ireland Housing Council;

“demolition order” means an order under Article 35;

“the Department” means the Department of the Environment;

“exclusion order” means an order under Article 34;

“the Executive” means the Northern Ireland Housing Executive;

“flat” means a separate and self-contained set of premises constructed for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally;

“hostel” means a building wherein is provided for persons generally, or for a class or classes of persons, residential accommoda-

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tion (otherwise than in separate or self-contained sets of premises) and either board or facilities for the preparation of food adequate to the needs of those persons, or both;

“house” includes (subject to paragraph (3))—

(a) any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling,

(b) a flat,

(c) any yard, garden, outhouse and appurtenances belonging to a house, or usually enjoyed therewith, and

(d) the site of a house;

“house in multiple occupation” means a house occupied by persons who do not form a single household;

“housing accommodation” means houses, houses in multiple occupation and hostels;

“housing action area” mean an area declared to be a housing action area under Article 52;

“mortgage” includes a charge;

“net annual value” has the same meaning as in Article 31(3) of the Land Acquisition and Compensation (Northern Ireland) Order 1973;

1973 NI 21

“owner”, in relation to land—

(a) means a person, other than a mortgagee not in possession, who, whether in his own right or as a trustee for any other person and whether alone or jointly or in common with any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let; and

(b) includes, where notice under this Order is required to be served on an owner, any person who as agent is entitled to receive the rack rent of the land.

“prescribed”, except in relation to “prescribed rate”, means prescribed by regulations made by the Department;

“prescribed rate”, in relation to interest, means such rate as is determined by an order made by the Department of Finance for the purposes of paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972;

1972 c.9

“rack rent”, in relation to a house, means a rent which is not less than two-thirds of the net annual value of the house, or a rent which has been fixed in accordance with the Rent (Northern Ireland) Order 1978;

1978 NI 20

“reasonable expense” means a sum which is not more than 21 times, or such other multiplier as the Department may by order made subject to affirmative resolution determine, the net annual value of the house;

“repair notice” means notice under Article 41;

“statutory provision” has the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954;

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1954 c.33

“unfit for human habitation” shall be construed in accordance with Article 46.

(3) In Chapters II and III of Part III references to a house include a reference to a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been on substantially the same site or enclosed within the same area for a period of not less than one year.

(4) For the purposes of this Order a person is a member of another’s family if that person is—

- (a) the other’s wife or husband; or
- (b) a son or daughter or a son-in-law or daughter-in-law of the other, or of the other’s wife or husband; or
- (c) the father or mother of the other, or of the other’s wife or husband.

(5) In paragraph (4)(b) any reference to a person’s son or daughter includes a reference to any step-son or step-daughter, any illegitimate son or daughter and any adopted son or daughter of that person, and “son-in-law” and “daughter-in-law” shall be construed accordingly.

PART II

THE NORTHERN IRELAND HOUSING EXECUTIVE

CHAPTER I

THE NORTHERN IRELAND HOUSING EXECUTIVE AND COUNCIL

The Northern Ireland Housing Executive

3.—(1) The public authority and body corporate known as the Northern Ireland Housing Executive shall continue in being as such and section 19 of the Interpretation Act (Northern Ireland) 1954 shall continue to apply to it.

(2) The Executive shall exercise such functions as are conferred on it by this Order.

(3) Schedule 1 shall have effect with respect to the members and proceedings of the Executive and the other matters there dealt with.

The Northern Ireland Housing Council

4.—(1) The Northern Ireland Housing Council shall continue in being as such and shall consider any matter affecting housing—

- (a) which is referred to the Council by the Department or the Executive; or
- (b) which appears to the Council to be a matter to which consideration ought to be given.

(2) Where it appears to the Council to be desirable to do so, the Council may make recommendations to the Department or the Execut-

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ive with respect to any matter which it has considered, and the Department or the Executive shall consider any such recommendations.

(3) If it appears to the Council that the Executive—

- (a) has unreasonably rejected any recommendation made to it by the Council; or
- (b) has failed to consider any such recommendation within a reasonable time;

the Council may, after consulting the Executive, make representations to the Department as to the action which, in the opinion of the Council, ought to be taken as regards the matter dealt with in the recommendation.

(4) Where the Department receives representations under paragraph (3), it may, after consulting the Executive, give to it such directions as the Department considers fit with respect to the matters dealt with in the representations.

(5) The Executive shall—

- (a) provide—
 - (i) such officers and servants and such accommodation, and
 - (ii) such facilities and financial or other assistance,as are required for the proper discharge of the Council's functions; and
- (b) make available to the Council such information in the possession of the Executive as the Council may reasonably require.

(6) If the Council and the Executive disagree as to the officers and servants or the accommodation, facilities or financial or other assistance to be provided, or information to be made available under paragraph (5), paragraphs (3) and (4) shall apply as if the matter were one on which the Executive had unreasonably rejected a recommendation of the Council.

(7) Schedule 2 shall have effect with respect to the members and proceedings of the Council and the other matters there dealt with.

Staff of the Executive

5.—(1) Paragraph (2) shall have effect with respect to the powers of the Executive under section 19 of the Interpretation Act (Northern Ireland) 1954 to employ staff.

(2) The numbers, terms and conditions of employment, remuneration, appointment, removal from office, suspension or re-instatement and qualifications of such of the staff employed by the Executive as the Department may direct, shall be subject to the approval of the Department.

(3) The Executive shall be deemed to be a local authority for the purposes of the Superannuation (Northern Ireland) Order 1972.

(4) The Executive may, with the consent of the Department, make such provision as it considers desirable for the payment of pensions and

1954 c.33

1972 NI 10

other superannuation benefits to or in respect of such of its employees as it may designate for the purposes of this paragraph, and paragraph (3) shall not apply to a person so designated. PART II

(5) The functions of the Local Government Staff Commission for Northern Ireland shall continue to extend to officers of the Executive and for that purpose Part III of, and Schedule 3 to, the Local Government Act (Northern Ireland) 1972 shall continue to have effect in accordance with the amendments set out in Schedule 3. 1972 c.9

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GENERAL FUNCTIONS OF THE EXECUTIVE

General functions of the Executive

6.—(1) The Executive shall—

- (a) regularly examine housing conditions and need;
- (b) submit to the Department for approval its programme for such years and in such form as the Department may determine for meeting housing need;
- (c) consider any proposals of a district council with respect to the exercise of any of the functions of the Executive in the district of the council.

(2) The Department may approve any programme submitted to it under paragraph (1) with or without modifications.

(3) For the purposes of paragraph (1), the Executive may carry out such inspections and surveys as it considers necessary.

(4) The Executive shall establish such housing information and advisory services as it considers desirable.

(5) The Executive may, with the consent of the Department, conduct or promote research into any matter relating to any of its functions.

(6) The Department may by order provide for the transfer to the Executive of functions of district councils under the Small Dwellings Acquisition Acts 1899 to 1948 and of any property vested in them for the purposes of those Acts or rights and liabilities to which they are entitled or subject for those purposes.

(7) An order made under paragraph (6) shall be subject to affirmative resolution and may contain such consequential or supplementary provisions as the Department thinks fit.

Consultation by the Executive

7.—(1) The Executive—

- (a) shall not less than once in each year consult the Council with respect to any draft programme of the Executive for meeting housing need; and
- (b) shall so consult each district council with respect to any draft

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programme of the Executive for meeting housing need in the council's district.

(2) The Executive shall, when required to do so by the Department, consult district councils with respect to such matters as the Department may determine.

(3) Where the Executive is, in relation to any matter, of the opinion that it should consult an organisation representative of its tenants, it shall consult such organisations as it may recognise as being representative of tenants affected by the matter.

Delegation of functions by the Executive

8.—(1) The Department may by order, subject to affirmative resolution, make such provision as it considers fit with respect to the delegation to a district council of any function of the Executive specified in the order.

(2) Where any function is delegated by an order made under paragraph (1), the council shall, in the exercise of that function, act as agent for the Executive and in accordance with such conditions as may be specified in the order.

Advances by the Executive

9. The Executive may, subject to such conditions as the Department may specify, advance money by way of mortgage to any person for the purposes of—

- (a) acquiring or constructing a house;
- (b) converting a building into a house or acquiring buildings for that purpose;
- (c) altering, enlarging, repairing or improving a house.

Directions to the Executive

10.—(1) The Department may give directions of a general or specific nature to the Executive as to the manner in which it is to discharge its functions, and the Executive shall act in accordance with those directions.

(2) Any directions given to the Executive by the Department may be varied or revoked by subsequent directions so given.

Disclosure of information to the Department

11.—(1) The Executive shall provide the Department with such information relating to its proceedings as the Department may require.

(2) For that purpose, the Executive shall permit any person authorised by the Department in that behalf to inspect and make copies of its accounts, books, documents and papers and shall afford such explanation thereof as that person or the Department may reasonably require.

Annual report

12.—(1) The Executive shall as soon as may be after the 31st March in each year make to the Department a report of its activities in the preceding financial year.

(2) The Department shall lay before the Northern Ireland Assembly a copy of every report made under this Article.

Power to enter on lands

13.—(1) A person authorised in writing by the Executive may, at all reasonable times, on giving—

- (a) in the case of entry under this Article for the sole purpose of examination, at least 24 hours' notice of his intention to the occupier or owner; and
- (b) in the case of entry under this Article for any other purpose, at least 6 days' notice in writing of his intention to the occupier and to the owner, if the owner is known,

or, in either case, such lesser period of notice as may be agreed between the person so authorised and the occupier or the owner, and, in any case, on production (if so required) of his authority, enter for the purpose of survey, valuation or examination—

- (i) any land which the Executive proposes to acquire compulsorily;
- (ii) any land, where it appears to the Executive that survey, valuation or examination is necessary in order to determine whether any powers under this Order should be exercised in respect of that land;

and any power conferred by this Article to survey land shall be construed as including power to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil or the presence of minerals therein, or both, and to take and carry away, for the purpose of examination, specimens of the subsoil or minerals, or both, found therein.

(2) Where any property is damaged in the exercise of a right of entry conferred by this Article, or in the making of any survey or examination or the doing of anything for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered from the Executive by any person interested in the property.

(3) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

(4) Any reference in this Article to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by such occupier or owner as his representative for purposes which include all or any of the purposes of this Article.

Information as to ownership of land

14.—(1) The Executive may, for the purpose of enabling it to serve any notice (including any copy of any notice) which it is by this Order

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authorised or required to serve, require the occupier of any land, and any person who, either directly or indirectly, receives rent in respect of any land, to state in writing the nature of his own estate therein and the name and address of any other person known to him as having an estate therein.

(2) Any person who, having been required by the Executive in pursuance of this Article to give to it any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

CHAPTER III

FINANCE

Advances by the Department to the Executive

15.—(1) The Department may make advances to the Executive of such amounts and on such terms as may be approved by the Department of Finance.

(2) Subject to paragraph (3), the Department of Finance may issue to the Department out of the Consolidated Fund such sums as are necessary to enable the Department to make advances under paragraph (1), and for the purpose of providing for such issues, the Department of Finance may borrow money.

(3) The amount by which the aggregate of the sums issued under—

(a) paragraph (2);

(b) Article 3(2) of the Housing Finance (Northern Ireland) Order 1977;

(c) section 20(2) of the Housing Executive Act (Northern Ireland) 1971; and

(d) section 17(2) of the Housing Act (Northern Ireland) 1945;

exceeds the total amounts of principal repaid to the Consolidated Fund in respect of advances made under paragraph (1), Article 3(1) of the said Order of 1977, section 20(1) of the said Act of 1971 and section 17(1) of the said Act of 1945 shall not at any time exceed £950 million.

Borrowing by the Executive

16.—(1) The Executive may, with the approval of the Department of Finance, borrow money.

(2) Without prejudice to section 19(1)(a)(ii) of the Interpretation Act (Northern Ireland) 1954, a person lending money to the Executive shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money was properly applied.

(3) The Department of Finance may guarantee, in such manner and on such conditions as it may think fit, the repayment of the principal of, and the payment of interest on, any sums which the Executive borrows from any person.

1977 NI 8

1971 c.5

1945 c.2

1954 c.33

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1972 c.9

1971 c.5

(4) For the purposes of paragraph (3), any sums borrowed from any person by a former local authority (within the meaning of Part IX of the Local Government Act (Northern Ireland) 1972), the Northern Ireland Housing Trust or a new town commission, the liability for which was transferred to the Executive by virtue of section 8 of the Housing Executive Act (Northern Ireland) 1971, shall be treated as sums borrowed by the Executive.

(5) Any sums required by the Department of Finance for fulfilling a guarantee under paragraph (3) shall be charged on and issued out of the Consolidated Fund, and for the purpose of providing for such issues the Department of Finance may borrow money.

Rent scheme

17.—(1) The Executive shall submit to the Department a scheme for determining the rent to be charged by the Executive for any housing accommodation provided by it.

(2) The Department may approve a scheme submitted under paragraph (1) with or without modifications.

(3) The Executive shall comply with a scheme approved by the Department under paragraph (2).

(4) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (2) or a scheme replacing any such scheme and paragraphs (2) and (3) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

Rent rebate scheme

18.—(1) The Executive may, with the consent of the Department and the approval of the Department of Finance, bring into operation a scheme for granting to persons, who occupy as their homes houses let to them by the Executive, rebates from rent calculated in accordance with the provisions of the scheme by reference to their needs and resources.

(2) No rebate from the rent of a house shall be granted by virtue of this Article to any person if he occupies the house in pursuance of a contract of service with the Executive the terms of which require that he shall be provided with a house at a rent specified in the contract or without payment of rent.

Estimates of the Executive's income and expenditure

19.—(1) In each financial year the Executive shall submit to the Department, in such form as the Department may direct, estimates of the income and expenditure of the Executive during the next-following financial year and shall submit such other information relating to those estimates as the Department may require.

(2) Without prejudice to any other statutory provision requiring the Executive to obtain the Department's approval or consent, the Depart-

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ment may approve estimates submitted under paragraph (1) either in whole or in part or subject to such modifications or conditions as the Department thinks fit.

(3) The Department may at any time approve an amendment to the estimates approved under paragraph (2) in such manner as it may determine.

(4) Subject to paragraph (5), the expenditure of the Executive shall be in accordance with estimates approved under paragraph (2) but where the Department is satisfied that any expenditure not provided for by the estimates has been, or will be, reasonably and properly incurred in any financial year, the Department may sanction such expenditure notwithstanding that it has not been provided for by the estimates.

(5) Where, for whatever reason, the Department has not approved the estimates for a financial year at the beginning of that year, the Executive may, until estimates for that year are approved, incur expenditure not exceeding 40 per cent of the amount of the estimates approved for the preceding financial year.

Annual grant to the Executive

20.—(1) Subject to paragraph (2), the Department may in respect of each financial year pay to the Executive at such times, in such manner and subject to such conditions as the Department may think fit, a grant towards the expenditure incurred or to be incurred by the Executive in that year.

(2) The amount of any grant payable by the Department under paragraph (1) shall be such as the Department may, with the approval of the Department of Finance, determine.

Accounts and Audit

21.—(1) The Executive shall keep such accounts and other records as the Department may direct.

(2) The Executive shall, as soon as may be after the close of each financial year—

(a) prepare a statement of its accounts in such form as the Department, with the approval of the Department of Finance, shall direct;

(b) transmit a copy of that statement to the Department.

(3) The accounts of the Executive shall in respect of each financial year be audited by such local government auditor as the Department may designate.

(4) Subject to paragraph (5), the statutory provisions which relate or apply to the audit of the accounts of district councils (including such provisions which impose penalties or provide for the payment or recovery of sums in respect of audit fees, but not including such provisions which confer upon the auditor any power of disallowance or

surcharge) shall apply to the audit of the accounts of the Executive as if the Executive were a district council.

(5) The Department may by regulations make such modification or alteration in or such further provision with respect to the procedure to be followed by a local government auditor acting under this Article as the circumstances require.

(6) The Department shall, in each financial year, transmit to the Comptroller and Auditor-General a copy of the statement of the Executive's accounts for the preceding financial year, certified by the local government auditor designated under paragraph (3), together with a copy of that auditor's report thereon.

(7) The Comptroller and Auditor-General shall examine any statement of accounts and report transmitted to him under paragraph (6) and the Department shall lay them, together with the report of the Comptroller and Auditor-General thereon, before the Northern Ireland Assembly.

(8) The Comptroller and Auditor-General may examine any accounts kept by the Executive and any records relating thereto.

(9) The Executive may invest such money as is not immediately required for the purposes of the Executive in any investment for the time being authorised by law for the investment of trust property, and sections 1, 2, 5, 6, 12 and 13 of the Trustee Investments Act 1961 (investment powers of trustees), as applied in Northern Ireland by the Trustee Acts (Northern Ireland) 1958 and 1962, shall apply as if the Executive were a trustee and the money were trust property.

1961 c.62

1958 c.23
1962 c.10

CHAPTER IV

HOUSING MANAGEMENT

House allocation scheme

22.—(1) The Executive shall submit to the Department a scheme making provision for determining the order in which prospective tenants or occupiers of the Executive's houses are to be granted tenancies or licences of those houses.

(2) The Department may approve a scheme submitted under paragraph (1) with or without modifications.

(3) The Executive shall comply with a scheme approved by the Department under paragraph (2).

(4) The Executive may submit to the Department proposals for amending a scheme approved under paragraph (2) or a scheme replacing any such scheme and paragraphs (2) and (3) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

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Power to let houses to government departments and other bodies

23.—(1) The Executive may let houses to a government department (including a department of the government of the United Kingdom), or to a public authority or body, or to any charitable or benevolent association, society or body of persons (whether corporate or unincorporate).

(2) The Executive may let a house to any local or other body of persons for any purpose beneficial to the residents of the area in which the house to be let is situated.

Recovery of possession of premises let by the Executive

24. On the termination of the tenancy of any premises let by the Executive, possession of the premises may (without prejudice to any other method of recovery) be recovered by the Executive in a summary manner under Part VII of the Magistrates' Courts Act (Northern Ireland) 1964 wherever the premises may be situate and whatever may be the rent or term of the tenancy.

1964 c.21

Substitution or variation of tenancy agreements

25.—(1) Subject to paragraph (2), where a house is or has been let by the Executive on a weekly or other periodic tenancy, the Executive, without the tenancy being terminated, may—

- (a) substitute a new tenancy agreement for an existing tenancy agreement,
- (b) vary the terms of any tenancy agreement,

by a written notice of substitution or variation given by the Executive to the tenant not less than 4 weeks before the date upon which the substitution or variation is to be made.

(2) A notice of substitution or variation given by the Executive under paragraph (1) shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so.

(3) In this Article "tenancy agreement" includes every term or condition (other than the amount of rent to be paid) expressed or implied in any contract of letting.

Increase of Executive rents

26.—(1) Subject to paragraphs (2) and (3), where a house is or has been let by the Executive on a weekly or other periodic tenancy, the rent payable to the Executive under the tenancy may, without the tenancy being terminated, be increased with effect from the beginning of any rental period (that is to say, a period in respect of which a payment of rent falls to be made) by a written notice of increase given by the Executive to the tenant not less than 4 weeks before the beginning of the rental period (or any earlier day on which the payment of rent in respect of that period falls to be made).

(2) Where the Executive gives a notice of increase under paragraph

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(1) for the beginning of a rental period and the tenancy continues into that period, the notice shall nevertheless not have effect if the tenancy is terminated by notice to quit given by the tenant in accordance with the express or implied provisions of the tenancy, and

- (a) the notice to quit is given before the end of the period of 2 weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase; and
- (b) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice to quit given by the tenant in the last day of that period.

(3) The Executive's notice of increase under paragraph (1) shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and it also gives him the dates by which, if the increase is not to be effective, the notice to quit must be received by the Executive and the tenancy made to terminate.

PART III

DEVELOPMENT FUNCTIONS OF THE EXECUTIVE

CHAPTER I

PROVISION OF HOUSING ACCOMMODATION

Provision of housing accommodation

27. The Executive may provide housing accommodation by—

- (a) constructing houses on any land acquired by it,
- (b) converting buildings into houses,
- (c) acquiring houses,
- (d) altering, enlarging, repairing or improving any houses or buildings which have been acquired by it,
- (e) constructing, acquiring, altering, enlarging, improving or repairing any temporary building which may be, or may be made, suitable for residential purposes.

Supplementary powers

28.—(1) The Executive may—

- (a) provide fixtures and fittings in houses, hostels or other buildings acquired by it or under its control, provide furniture in hostels acquired by it or under its control and sell, let, lend or hire such fixtures, fittings or furniture on such terms and conditions as to payment or otherwise as it may consider fit;
- (b) manage any houses provided by it or otherwise under its control and promote the welfare and comfort of the tenants or occupiers thereof;
- (c) demolish houses or buildings owned by it;

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- (d) develop land, lay out streets, roads and open spaces and hand over to the Department any streets or roads when completed;
- (e) undertake and execute any lawful trust which has for its object the furtherance of the provision of housing accommodation in Northern Ireland, or any other subject similar or incidental to any purposes of the Executive;
- (f) accept gifts and donations;
- (g) support, or aid in the support of, charitable or benevolent associations or institutions connected with the provision of housing accommodation, or with objects ancillary to such provision;
- (h) do all such other matters and things as are reasonably necessary for the exercise and performance of all or any of the powers and duties of the Executive under this Order and perform any other function which is incidental or conducive to the attainment or furtherance of the purposes of the Executive or any of them.

(2) The Executive may, with the consent of the Department, provide and maintain alone or jointly with any other person, in connection with any housing accommodation provided by it, any building adapted for use as a shop, any recreation grounds, or other buildings or land.

(3) The Department may give its consent under paragraph (2) subject to such conditions as it thinks fit.

(4) In paragraph (2) the power to provide buildings or land in connection with housing accommodation includes power to let or grant licences to use such buildings or land.

Production and supply of heat

29.—(1) The Executive may—

- (a) establish and operate, or cause to be operated, for the production of heat such plant as it thinks fit;
- (b) buy or acquire heat; and
- (c) sell or otherwise dispose of heat to the occupiers of—
 - (i) housing accommodation provided by the Executive,
 - (ii) buildings provided by the Executive in connection with the provision of such housing accommodation, and
 - (iii) any other house or building.

(2) In paragraph (1) “heat” includes hot air, hot water and steam.

Submission of schemes by the Executive

30.—(1) The Executive shall prepare and submit to the Department for approval such schemes as the Department may require, showing the nature of the works to be executed or other steps to be taken by the Executive for the provision of housing accommodation or for the furtherance of any other purpose of the Executive.

(2) Schemes under paragraph (1) shall be in such form and contain such particulars as the Department may require.

(3) The Department may approve a scheme or part of a scheme submitted under paragraph (1) without modification or subject to such modifications as it may think fit.

Provision of houses for sale

31.—(1) The Executive may construct houses for sale and acquire land, in accordance with Article 87, for the purposes of—

- (a) constructing on that land houses for sale by it; or
- (b) disposing of that land to a person who intends to construct houses on it or to use it for purposes which, in the opinion of the Executive, are necessary or desirable for, or incidental to, the development of the land for housing purposes.

(2) Where, in accordance with Article 88, the Executive sells or leases any houses constructed by it or disposes of any land for the purposes specified in paragraph (1)(b), it may impose such covenants and conditions in relation to the houses or land as it thinks fit.

(3) The power of the Executive to sell or lease houses under Article 88 shall include, and be deemed always to have included, power to grant an equity-sharing lease.

(4) Upon a sale or grant of a lease of a house under Article 88, the Executive may agree to the price or any premium being paid by way of instalments or to payment being secured by a mortgage of the premises.

(5) Where the Executive disposes of any land for the purposes of paragraph (1)(b), it may contribute or agree to contribute, towards the cost of developing the land.

(6) In this Article—

- (a) “equity-sharing lease” means a lease of land, the general effect of which is to provide—
 - (i) that, in consideration for the granting of the lease, the lessee shall pay a capital sum, representing a part payment in respect of the cost of acquisition of the premises demised, and a rent; and
 - (ii) that the lessee may make additional part payments towards the said cost of acquisition and may exercise an option to purchase the whole or part of the lessor’s reversion in the premises demised;
- (b) “sale” includes sale in consideration of a fee farm rent, rent charge or similar periodic payment.

CHAPTER II

CLEARANCE AREAS AND CLEARANCE, DEMOLITION AND CLOSING ORDERS

Declaration of clearance areas

32.—(1) Where the Executive is satisfied as respects any area—

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- (a) that the houses in that area are unfit for human habitation, or are by reason of their bad arrangement, or the narrowness or bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area, and that the other buildings (if any) in the area are for a like reason dangerous or injurious to the health of the said inhabitants; and
- (b) that the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area;

the Executive shall define that area on a map so as to exclude from the area any building which is not unfit for human habitation or dangerous or injurious to health, and shall declare the area so defined to be a clearance area, that is to say, an area to be cleared of all buildings in accordance with the provisions of this Chapter.

(2) The Executive shall send notification of any declaration under this Article to—

- (a) the Department; and
- (b) the district council for the local government district in which the clearance area lies;

together with a statement of the number of persons who, on a day to be specified in the statement, occupied the buildings comprised in the clearance area.

(3) So soon as may be after the Executive declares an area to be a clearance area, it shall proceed to secure the clearance thereof by ordering the demolition of the buildings in the area.

(4) Where the Executive is of the opinion that an area should cease to be a clearance area, it may, with the consent of the Department, make a declaration to that effect and the area shall cease to be a clearance area from the date of that declaration.

Clearance orders

33.—(1) Where, as respects any clearance area, the Executive determines to order any buildings to be demolished, it shall make and submit to the Department, for confirmation by it, a clearance order ordering the demolition of each of those buildings.

(2) Part I of Schedule 4 shall have effect with respect to clearance orders.

Exclusion orders

34.—(1) Where the Executive is satisfied that a house comprised in a clearance order, which has been confirmed by the Department—

- (a) has been made fit for human habitation, or
- (b) will be made fit for human habitation if excluded from the clearance area,

the Executive may make and submit for confirmation by the Depart-

ment an exclusion order excluding the house from the clearance area and modifying or revoking the clearance order accordingly.

(2) If it appears to the Executive that any house or other building, which has not been included in a clearance order, would not have been included in the clearance area but for the inclusion in the clearance area of the house to be excluded under paragraph (1), the exclusion order shall provide that that building shall also be excluded from the clearance area.

(3) An exclusion order may be made notwithstanding that the effect of the order in excluding any building from the clearance area is to sever that area into two or more separate and distinct areas, and in any such case Part I of Schedule 4 shall apply as if those areas formed one clearance area.

(4) For the purposes of this Article the Executive may accept an undertaking from an owner of the building, or any other person who has or will have an estate in the building and in particular undertakings concerning—

- (a) the works to be carried out to make the building fit for human habitation, and the time within which the works are to be carried out, and
- (b) the repayment of any sums paid by the Executive under—
 - (i) Chapter II of Part V,
 - (ii) section 36 or 37 of the Housing Act (Northern Ireland) 1971, or
 - (iii) section 2 of the Housing Act (Northern Ireland) 1961.

1971 c.16

1961 c.12

(5) Part II of Schedule 4 shall have effect in relation to exclusion orders.

Demolition orders

35.—(1) Where the Executive is satisfied that any house—

- (a) is unfit for human habitation, and
- (b) is not capable of being rendered fit at reasonable expense,

it shall serve notice upon—

- (i) the owner of the house, and
- (ii) so far as is reasonably practicable to ascertain such persons, every mortgagee of the house,

specifying a time (being not less than 21 days from the date of service of the notice) and place at which the condition of the house and any offer with respect to the carrying out of works or the future use of the house which that person may wish to submit, will be considered by a person appointed by the Executive whose report the Executive shall consider.

(2) Every person upon whom a notice is served under paragraph (1) shall be entitled to be heard by the person appointed by the Executive.

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(3) The Executive may accept an undertaking from any person upon whom a notice has been served under paragraph (1), that either—

(a) he will within a specified period carry out such works as will, in the opinion of the Executive, render the house fit for human habitation; or

(b) the house shall not be used for human habitation until the Executive, on being satisfied that the house has been rendered fit for that purpose, cancels the undertaking.

(4) If—

(a) the Executive does not accept an undertaking under paragraph (3), or

(b) the Executive has accepted such an undertaking, but the house is not, within such period as the Executive considers reasonable, rendered fit for human habitation or is at any time used in contravention of the undertaking,

the Executive shall, subject to Article 38(1), make a demolition order and shall serve a copy thereof upon every person upon whom it would be required to serve a notice under paragraph (1).

(5) Subject to Article 43, where the Executive makes a demolition order the order shall require—

(a) that the house be vacated within a period, not being less than 28 days from the date on which the order becomes operative, and

(b) that the house be taken down and removed—

(i) within 6 weeks after the expiration of the period specified in sub-paragraph (a), or

(ii) if the house is not vacated within that period, within 6 weeks after the date on which it is vacated, or

(iii) within such longer period as the Executive may specify in the circumstances.

(6) Where, in accordance with Article 44, a demolition order becomes operative, the owner of the house to which it applies shall take down and remove that house within the time specified in the order; and, if the house is not taken down and removed within that time, the Executive shall enter and take down and remove the house and sell the materials thereof.

(7) Paragraphs 10 and 11 of Schedule 4 shall apply to any expenses incurred by the Executive under paragraph (6) and to any surplus remaining in the hands of the Executive.

Recovery of possession of buildings subject to clearance or demolition order

36.—(1) Where, in accordance with paragraph 7 of Schedule 4 or, as the case may be, Article 44, a clearance order or demolition order becomes operative, the Executive shall serve upon the occupier of any building to which the order relates a notice—

- (a) stating the effect of the order,
- (b) specifying the date by which the building is to be vacated, and
- (c) requiring him to quit the building before the said date or before the expiration of 28 days from the service of the notice, whichever may be the later.

(2) If, at any time after the date on which a notice under paragraph (1) requires a building to be vacated, any person is in occupation of the building, the Executive or any owner of the building may bring proceedings in the same manner as ejectment proceedings under Part VII of the Magistrates' Courts Act (Northern Ireland) 1964 and the court shall, on proof of the service of the notice and of such occupation, order vacant possession of the building to be given to the Executive or owner, but, in doing so, shall stay the issue of the decree for possession for a period of not less than 2 weeks or more than 4 weeks from the date of the order.

1964 c.21

(3) Any person who, knowing that a clearance or demolition order is in operation in relation to any building, enters into occupation of that building or of any part thereof after the date by which the order requires that building to be vacated or after the date on which the building is in fact vacated, whichever is the earlier, or permits any other person to enter into such occupation after that date, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a further fine not exceeding £10 for every day or part of a day on which the occupation continues after conviction.

Determination of demolition orders

37.—(1) Where—

- (a) the Executive has made a demolition order in respect of a house and the house has not yet been taken down and removed;
- (b) the owner of the house, or any other person who in the opinion of the Executive is, or will be, in a position to put his proposals into effect, submits proposals to the Executive for the reconstruction, enlargement or improvement of the house; and
- (c) the Executive is satisfied that the result of the work will be the provision of one or more houses fit for human habitation,

the Executive may, in order that the proposed works may be carried out, by notice served on the owner or occupier extend for such period as it may specify the time within which the house is required by the demolition order to be taken down and removed and such time may be further extended by the Executive as occasion may require.

(2) Where the Executive is satisfied that a house in respect of which a demolition order has been made has been rendered fit for human habitation the Executive may make an order determining the demolition order.

(3) Where the Executive—

- (a) extends or further extends the time mentioned in paragraph (1),
or

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(b) makes an order under paragraph (2),

it shall serve a copy of the notice or order upon every person upon whom it was required to serve a copy of the demolition order.

1961 c.12

(4) Where the Executive makes an order under paragraph (2), any payments made under Chapter II of Part V or under Part I of the Housing Act (Northern Ireland) 1961 by the Executive shall, unless the Department otherwise directs, be repayable to the Executive and shall be recoverable as a civil debt due to it.

Closing orders

38.—(1) Where the Executive would but for this Article make a demolition order in respect of a house, it may, if it considers it inexpedient to do so having regard to the effect of the demolition of that house upon any other building, in lieu of making such an order, make a closing order prohibiting the use of the house for any purpose other than one approved by the Executive.

(2) The Executive shall serve a copy of the closing order upon every person upon whom it would have to serve such a copy if the order were a demolition order.

(3) Where a closing order has been made in respect of a house, the Executive may at any time revoke that order and make a demolition order in respect of that house.

Determination of closing orders

39.—(1) Where the Executive is satisfied that a house in respect of which a closing order has been made, has been rendered fit for human habitation, the Executive may make an order determining the closing order.

(2) Where an order is made under paragraph (1), the Executive shall serve a copy of that order upon every person upon whom it was required to serve a copy of the closing order.

(3) Article 37(4) shall have effect in relation to the determination of a closing order in the same manner as it applies where a demolition order is determined.

Procedure where closing order made or undertaking given as to use of house

40. Any person who, knowing that a closing order has become operative and applies to any premises, or that an undertaking has been accepted under this Chapter that any premises shall not be used for purposes specified in the undertaking, uses those premises in contravention of that order or undertaking or permits them to be so used, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a further fine not exceeding £10 for every day on which he so uses them, or permits them to be so used, after conviction.

Repair notices

41.—(1) Subject to paragraph (2), where the Executive is satisfied that any house or part of a house is unfit for human habitation, it shall, unless it is satisfied that it is not capable at a reasonable expense of being rendered so fit, serve upon the owner of the house a notice requiring him, within such reasonable time, not being less than 21 days, as may be specified in the notice, to execute the works specified in the notice and stating that, in the opinion of the Executive, those works will render the house or, as the case may be, that part thereof, fit for human habitation.

(2) The Executive may accept an undertaking from the person upon whom the notice is served that the house will not be used for human habitation until the Executive, on being satisfied that every part of the house has been rendered fit for that purpose, cancels the notice.

(3) In addition to serving a notice on the owner of the house, the Executive may also serve a copy of the notice upon any other person having an estate in the house.

Enforcement of repair notices

42.—(1) If a notice under Article 41 is not complied with, and if an undertaking such as is mentioned in that Article has not been accepted, then, after the expiration of the time specified in the notice, or, if an appeal has been made against the notice and upon that appeal the notice has been confirmed with or without variation, after the expiration of 21 days from the final determination of the appeal, or of such longer period as the court in determining the appeal may fix, the Executive may itself do the work required to be done by the notice or, as the case may be, by the notice as varied by the court.

(2) Where the Executive is about to enter a house under paragraph (1) for the purpose of doing any work it shall give to the owner and to the occupier of the house notice in writing of its intention to do so.

(3) Subject to paragraph (4), any expenses incurred by the Executive under this Article, together with interest at the prescribed rate from the date when a demand for the expenses is served until payment, may be recovered by the Executive summarily as a civil debt from the owner of the house.

(4) Where the Executive claims to recover any expenses from a person as being the owner of the house and that person proves that he—

- (a) is receiving the rent merely as agent or trustee for some other person; and
- (b) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the Executive;

his liability shall be limited to the total amount of the money which he has, or has had, in his hands.

(5) Any expenses and interest due to the Executive under this Article shall, until recovered, be deemed to be charged on and payable out of

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the estate in the land, in relation to which they have been incurred, of the owner of the land and of any person deriving title from him.

(6) The charge created by paragraph (5) shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the Executive by the person on whose estate the charge has been created (with, where necessary, any authorisation or consent required by law) and the Executive may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgages by deed accordingly.

1881 c.41

Appeals against demolition orders, closing orders, etc.

43.—(1) Any person aggrieved by—

- (a) a demolition order or refusal to determine such an order;
- (b) a notice or refusal to issue a notice under Article 37(1) extending or further extending the time within which a house is to be taken down or removed;
- (c) a closing order or refusal to determine such an order; or
- (d) a repair notice;

may, within 21 days from the date of the service of the notice or copy of the order or, as the case may be, from the service of notification of the refusal, appeal to the county court; and no steps shall be taken by the Executive to enforce any notice or order against which an appeal is brought before the appeal has been finally determined.

(2) An appeal shall not lie under paragraph (1)(a) or (c) at the instance of a person who is in occupation of the premises to which the order relates under a lease or agreement of which the unexpired term does not exceed one year.

(3) On an appeal under this Article, the county court—

- (a) may confirm or quash or vary the notice, order or decision appealed against as the court considers fit, and
- (b) may, if the court considers fit, accept from an appellant any such undertaking as might have been accepted by the Executive, and any undertaking so accepted by the court shall have the like effect as if it had been given to and accepted by the Executive.

Operative date of demolition orders, closing orders and repair notices

44.—(1) Any notice or order against which an appeal may be brought under Article 43 shall, if no such appeal is brought, become operative on the expiration of the period of 21 days mentioned in Article 43(1) and shall be final and conclusive as to any matters which could have been raised on such an appeal, and any such notice or order against which such an appeal is brought shall, if and so far as it is confirmed by the county court or the Court of Appeal, become operative as from the date of the final determination of the appeal.

(2) For the purposes of Article 43 and this Article, the abandonment of an appeal shall be deemed to be a final determination thereof, having the like effect as a decision confirming the notice, order or decision appealed against, and an appeal shall be deemed to be finally determined on the date on which the decision of the Court of Appeal is given, or, in a case where an appeal from the county court is not brought to the Court of Appeal, upon the expiration of the period within which such an appeal might have been brought.

Effect of Rent (Northern Ireland) Order 1978

45.—(1) Where an undertaking has been given under this Chapter that any premises shall not be used for human habitation, nothing in the Rent (Northern Ireland) Order 1978 shall prevent any owner of those premises from obtaining possession thereof.

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(2) Where any such undertaking has been cancelled the person from whom possession was obtained for the purpose of giving effect to the undertaking shall be entitled to recover possession of the premises and to occupy them at the same rent and subject to the same conditions as would have applied if he had continued to occupy the premises and they had been rendered fit for human habitation during such occupation.

(3) Nothing in the Rent (Northern Ireland) Order 1978 shall be deemed to affect the provisions of this Chapter relating to obtaining possession of a house with respect to which a clearance or demolition order has been made, or to prevent possession being obtained of any house which is required for the purpose of enabling the Executive to exercise its powers under this Chapter.

Standard of fitness for human habitation

46. In determining for any of the purposes of this Order whether a house is unfit for human habitation, regard shall be had to its condition in respect of the following matters, that is to say—

- (a) repair;
- (b) stability;
- (c) freedom from damp;
- (d) internal arrangement;
- (e) natural lighting;
- (f) ventilation;
- (g) water supply;
- (h) drainage and sanitary conveniences; and
- (i) facilities for preparation and cooking of food and for the disposal of waste water;

and the house shall be deemed to be unfit as aforesaid if and only if it is so far defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

CHAPTER III
RE-DEVELOPMENT AREAS

Re-development areas

47.—(1) Where the Executive is satisfied that—

- (a) at least one-half of the land in an area, other than land used for streets, carriageways, highways, roadways or footpaths to which the public has access, is used for housing purposes;
- (b) at least one-third of the houses in the area are—
 - (i) unfit for human habitation; or
 - (ii) by reason of their bad arrangement, or the narrowness or bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area; and
- (c) it is expedient that the area should be re-developed as a whole;

the Executive shall define that area by reference to a map and declare that area to be a proposed re-development area and shall send a copy of the declaration to the district council for the local government district in which the proposed re-development area lies.

(2) Where the Executive is of the opinion that an area should cease to be a proposed re-development area, it may with the consent of the Department make a declaration to that effect and the area shall cease to be a proposed re-development area from the date of that declaration.

(3) The Executive shall publish notice of a declaration under paragraph (2) in one or more than one newspaper circulating in the former proposed re-development area.

Re-development schemes and applications for vesting orders

48.—(1) Where the Executive declares an area to be a proposed re-development area, it shall prepare and submit to the Department a re-development scheme, indicating—

- (a) the houses in that area which are considered to be unfit for human habitation or, by reason of their bad arrangement, or the narrowness or bad arrangement of the streets, to be dangerous or injurious to the health of the inhabitants of the area;
- (b) in general terms the manner in which it is intended that the area should be laid out and the land therein used,

and shall apply to the Department for an order vesting that land in the Executive.

(2) When a re-development scheme is submitted, and application for a vesting order made, to the Department, the Executive shall thereupon—

- (a) publish in one or more than one newspaper circulating in the proposed re-development area a notice—

- (i) describing the proposed re-development area and referring to the submission of the re-development scheme;
- (ii) specifying the place at which copies of the scheme may be seen at reasonable times;
- (iii) stating that an application has been made to the Department for an order vesting in the Executive the lands included in the re-development scheme;
- (iv) stating the time (not being less than one month from the last of the publications of the notice) during which objections to the scheme, or to the making of the order, or to both the scheme and the making of the order, may be sent to the Department;

(b) serve on every person appearing to the Executive to have an estate in any land within the proposed re-development area a notice containing the particulars referred to in sub-paragraph (a).

(3) The Executive shall submit to the Department such further particulars in relation to a re-development scheme as the Department may require.

Approval and amendment of re-development schemes and making of vesting orders

49.—(1) If—

- (a) no objections are made to a re-development scheme or to the making of the vesting order; or
- (b) all objections to a re-development scheme and to the making of the vesting order are withdrawn;

the Department may approve the scheme with or without amendment and may make an order under Article 87 vesting in the Executive the land within the re-development area or so much thereof as the Department thinks proper.

(2) If objections made to a re-development scheme or to the making of the vesting order are not withdrawn the Department, unless it is satisfied that the objections are of a frivolous or vexatious nature, shall—

- (a) cause a public local inquiry to be held; and
- (b) consider any objections not withdrawn and the report of the person who held the inquiry;

and may thereafter approve the scheme with or without amendment and make an order under Article 87 vesting in the Executive the land within the re-development area or so much thereof as the Department thinks proper.

(3) On receipt of notice that the Department has approved a re-development scheme and made a vesting order, the Executive shall publish in one or more than one newspaper circulating in the area

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specified in the approved scheme as the re-development area (in this Chapter referred to as "the re-development area") a notice—

- (a) referring to the approval of the re-development scheme and describing the re-development area;
- (b) stating that a vesting order has been made;
- (c) specifying the place at which copies of the approved scheme and the vesting order may be inspected at reasonable times.

(4) On receipt of notice that the Department has refused to approve a re-development scheme or to make a vesting order, the Executive shall publish in one or more than one newspaper circulating in the proposed re-development area a notice referring to that refusal.

(5) On receipt of notice that the Department has approved or refused to approve a re-development scheme or has made or refused to make a vesting order, the Executive shall serve a notice containing the particulars referred to in paragraph (3) or, as the case may be, paragraph (4), on every person on whom a notice was served under Article 48(2)(b).

(6) Subject to paragraph (7), the Executive may at any time, and if so directed by the Department shall, prepare and submit to the Department proposals—

- (a) for amending an approved re-development scheme; or
- (b) for amplifying or modifying an approved re-development scheme in so far as it relates to the manner in which the re-development area is to be laid out and the land therein used;

and the Department may—

- (i) approve such proposals with or without amendment, and
- (ii) amend or, as the case may be, amplify or modify the approved re-development scheme accordingly.

(7) Article 48(2) and (3) and paragraphs (1) to (5) shall apply in relation to the making of proposals under paragraph (6)(a) in the same manner as those provisions apply to the submission of a re-development scheme under Article 48.

(8) References in this Chapter to an approved re-development scheme shall include references to any scheme altered in accordance with this Article.

Disposal of land and powers of the Executive in re-development areas

50.—(1) The Executive may, in accordance with Article 88, dispose of any land acquired under a re-development scheme subject to the condition that the land shall be developed in accordance with that scheme.

(2) Where any land is disposed of under the power conferred by paragraph (1), the conveyance or lease shall include all such covenants and conditions as may be necessary to secure compliance by all persons deriving title thereunder with the condition imposed by that paragraph.

(3) For the purpose of carrying out an approved re-development scheme the Executive may exercise any of its powers under this Order and, without prejudice to the generality of the foregoing, may—

- (a) maintain and manage any buildings acquired by the Executive in a re-development area;
- (b) carry out any works specified in an approved re-development scheme.

Extinction of public rights of way

51.—(1) Subject to paragraphs (2) to (5), the Executive may by order extinguish any public right of way which exists over land acquired by the Executive for the purposes of this Chapter or over land which the Executive proposes to acquire for such purposes.

(2) An order under this Article shall not have effect until approved by the Department.

(3) An order under this Article shall be published in the prescribed manner and objections to it may be made to the Department before the expiration of a period of 6 weeks from its publication.

(4) The Department may, at any time after the expiration of the said period of 6 weeks, approve the order with or without modification or refuse to approve the order, but shall not, until a public local inquiry is held into the matter, approve an order to which any objection is made in accordance with paragraph (3) and is not withdrawn, unless the Department is satisfied that such objection is of a frivolous or vexatious nature.

(5) An order under this Article made in advance of the acquisition of the land by the Executive shall not extinguish any public right of way at a date earlier than the date on which the land is acquired or before the expiration of such period after that date as the Department in approving the order may direct.

CHAPTER IV

HOUSING ACTION AREAS

Declaration of housing action areas

52.—(1) Where a report with respect to an area consisting mainly of housing accommodation is submitted to the Executive by a person or persons appearing to the Executive to be suitably qualified (whether or not that person is or those persons include an officer of the Executive) and, upon consideration of the report and of any other information in its possession, the Executive is satisfied that, having regard to—

- (a) the physical state of the housing accommodation in the area as a whole, and
- (b) social conditions in the area,

the requirement in paragraph (2) is fulfilled with respect to the area, the Executive may define the area by reference to a map and, with the consent of the Department, declare it to be a housing action area.

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(2) The requirement referred to in paragraph (1) is that the living conditions in the area are unsatisfactory and can most effectively be dealt with within a period of 5 years so as to secure—

- (a) the improvement of the housing accommodation in the area as a whole, and
- (b) the well-being of the persons for the time being residing in the area, and
- (c) the proper and effective management and use of that accommodation,

by declaring the area to be a housing action area.

(3) In considering whether to take action under paragraph (1) the Executive shall have regard to such guidance as may be given by the Department with regard to the identification of areas suitable to be declared as housing action areas.

(4) As soon as may be after declaring an area to be a housing action area, the Executive shall—

- (a) publish in one or more than one newspaper circulating in the locality a notice identifying the area and naming a place where a copy of the declaration, a map on which the area is defined and any report concerning the housing action area may be seen at reasonable times;
- (b) take such further steps as may appear to it best designed to secure that the declaration is brought to the attention of persons residing or owning property in the area and that those persons are informed of the address to which any inquiries and representations should be made concerning any action to be taken with respect to the area; and
- (c) send a copy of the declaration to the district council for the local government district in which the housing action area lies.

Duration of housing action areas

53.—(1) Where the Executive has declared an area to be a housing action area, then, subject to this Article, the area shall be a housing action area throughout the period of 5 years from the date of the declaration.

(2) If, not less than 3 months before the date on which, apart from any extension or further extension under this paragraph, a housing action area would cease to exist as such an area, the Executive, with the consent of the Department, so declares, the duration of the housing action area shall be extended, subject to paragraph (3), by the addition of a further period of 2 years.

(3) Notwithstanding anything in paragraphs (1) and (2) if the Executive, with the consent of the Department, so declares, an area which it has previously declared to be a housing action area shall cease to be such an area on the date on which the declaration under this paragraph is made.

(4) As soon as may be after making a declaration under paragraph (2) or (3) the Executive shall—

- (a) publish in one or more than one newspaper circulating in the locality a notice of the declaration naming a place where a copy of the declaration may be inspected at all reasonable times;
- (b) take such further steps as may appear to the Executive best designed to secure that the declaration is brought to the attention of persons residing or owning property in the housing action area concerned; and
- (c) send a copy of the declaration to the district council for the local government district in which the housing action area lies.

Reduction of housing action areas

54.—(1) The Executive may at any time, with the consent of the Department, exclude from a housing action area any land for the time being included therein.

(2) As soon as may be after making an exclusion under paragraph (1), the Executive shall—

- (a) publish in one or more than one newspaper circulating in the locality a notice of the exclusion, identifying the housing action area concerned and the land excluded from it;
- (b) take such further steps as may appear to the Executive best designed to secure that the exclusion is brought to the attention of persons residing or owning property in the housing action area; and
- (c) send notice of the exclusion to the district council for the local government district in which the housing action area lies.

Duty to publish information

55. Where the Executive has declared a housing action area, the Executive shall bring to the attention of persons residing or owning property in the area—

- (a) the action which it proposes to take in relation to the housing action area, and
- (b) the assistance available for the improvement of the housing accommodation in the area,

by publishing, in such manner as appears to it appropriate, such information as is in its opinion best designed to further the purpose for which the area was declared a housing action area.

Acquisition of land in housing action areas

56.—(1) Where the Executive has declared a housing action area, it may, in accordance with Article 87, acquire by agreement or compulsorily any land in the area for the purpose of securing or assisting in securing all or any of the objectives specified in Article 52.

(2) If at any time after—

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- (a) the Executive has entered into a contract for the acquisition of land falling within paragraph (1), or
- (b) an order vesting any such land has been made,

the housing action area concerned ceases to be such an area or the land concerned is excluded from the area, this Article shall continue to apply as if the land continued to be in a housing action area.

Provision, improvement, etc., of housing accommodation by the Executive

57.—(1) The Executive may, for the purpose of securing, or assisting in securing, all or any of the objectives specified in Article 52 undertake on any land vested in it, which is situated in a housing action area, all or any of the following activities—

- (a) the provision of housing accommodation, by the construction, conversion or improvement of buildings or otherwise;
- (b) the carrying out of works required for the improvement or repair of housing accommodation, including work to the exterior, or on land within the curtilage of buildings containing housing accommodation;
- (c) the demolition of existing buildings;
- (d) the management of housing accommodation; and
- (e) the provision of furniture, fittings or services in or in relation to housing accommodation;

and Article 28 shall apply to the powers exercisable by the Executive under this Article, in connection with the provision of housing accommodation.

(2) The Executive may, with the approval of the Department, make and carry into effect an agreement with any housing association registered under Article 124, whereby the association may act as agent for the Executive in undertaking any of the activities mentioned in paragraph (1).

Assistance for carrying out environmental works

58.—(1) For the purpose of effecting or assisting the improvement of living conditions in a housing action area, the Executive may, in accordance with this Article, give assistance towards the carrying out of works (in this Article referred to as “environmental works”)—

- (a) to the exterior, or on land within the curtilage, of buildings containing housing accommodation, not being works in respect of which an application for a grant under Part IV has been approved; or
- (b) on land not falling within sub-paragraph (a) for the purpose of improving the amenities of the area.

(2) Subject to paragraph (3), assistance under paragraph (1) may be given to any person having an estate in the building or land concerned and shall consist of all or any of the following, namely—

- (a) a grant in respect of expenditure which appears to the Executive to have been properly incurred in the carrying out of environmental works;
- (b) the provision of materials for the carrying out of environmental works; and
- (c) by agreement with the person concerned, the execution of environmental works at his expense, at the expense of the Executive, or partly at his expense and partly at the expense of the Executive.

(3) No assistance may be given under paragraph (1) in respect of a building or land in which the Executive has such an estate as would enable the Executive itself to carry out environmental works in relation thereto.

(4) A grant under paragraph (2)(a) may be paid after the completion of the works towards the cost of which it is payable or part of it may be paid in instalments as the works progress and the balance after the completion of the works; and where part of any such grant is paid in instalments the aggregate of the instalments paid shall not at any time before the completion of the works exceed one-half of the aggregate cost of the works executed up to that time.

(5) The value of any assistance given by the Executive under paragraph (1) shall not exceed such amount as the Department may, with the consent of the Department of Finance, determine.

CHAPTER V

UNOCCUPIED PREMISES

Interpretation

59. In this Chapter—

“house” includes—

- (a) any building or part of a building which may be, or may be made, suitable for residential purposes; and
- (b) any yard, garden, outhouse and appurtenance belonging thereto or usually enjoyed therewith;

“the owner” of a possessed house or of unoccupied premises means the person appearing to the Executive to be the owner thereof;

“possessed house” means a house of which the Executive has taken possession under Article 60(1); and

“unoccupied”, in relation to a house or premises, means unoccupied for the purposes of the Rates (Northern Ireland) Order 1977.

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Power to take possession of unoccupied houses

60.—(1) Subject to this Article, where the Executive is satisfied—

- (a) that a house is unoccupied,

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- (b) that the owner of the house is unable or unwilling to occupy or to let the house, and
- (c) that the house is suitable to be used for housing purposes or is reasonably capable of being so rendered,

the Executive may enter and take possession of the house for the purpose of providing housing accommodation and may carry out such works of repair and improvement as it may consider necessary or desirable to render the house suitable for housing purposes.

(2) Immediately after exercising its powers under paragraph (1) the Executive shall serve upon the owner of the possessed house a notice stating—

- (a) that it has taken possession of the house,
- (b) the date upon which such possession was taken, and
- (c) the name and address of an officer of the Executive to whom any inquiries and representations concerning the action taken in exercise of the Executive's functions under this Article may be made,

and, without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954, the Executive shall affix a copy of the notice to the possessed house.

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(3) The Executive, unless—

- (a) it determines not to continue in possession of the house, or
- (b) the owner agrees to dispose of the house to it,

shall, in exercise of its powers under Article 87, apply to the Department within a period of one month from the date of service of a notice under paragraph (2) for an order vesting the house in the Executive.

(4) Where the Executive applies to the Department under paragraph (3), it shall include in the notice of application for a vesting order the information specified in paragraph (2).

(5) Where the Department refuses to make a vesting order the Executive shall forthwith serve upon the owner a notice stating the date, being not less than 14 days from the date of service of the notice, upon which it will give up possession of the house.

(6) Where the Executive is satisfied that the owner, or a person with the agreement of the owner, intends within a reasonable period from the date of service of a notice under paragraph (2) to occupy the house or to commence works of repair or improvement upon it, the Executive shall withdraw forthwith any application for an order vesting the house in it and shall serve upon the owner a notice stating a date within that period upon which it will give up possession of the house.

Occupation of possessed houses

61.—(1) Subject to this Article, the Executive may allocate a possessed house to any person who appears to it to require housing accom-

modation and in so doing shall have regard to the provisions of a scheme approved by the Department under Article 22.

(2) A person to whom a possessed house is allocated—

- (a) shall occupy it on such terms, and subject to such conditions, as the Executive may determine; and
- (b) shall pay to the Executive in respect of it such sums as the Executive may, with the approval of the Department, determine.

(3) Any sums due to the Executive by a person to whom a house is allocated under this Article may, without prejudice to any other method of recovery, be recovered by the Executive summarily as a civil debt.

Compensation to be paid in respect of possessed houses

62.—(1) In every case where the Executive takes possession of a house under Article 60, it shall pay compensation in accordance with this Article.

(2) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

(3) The compensation payable in respect of the taking possession of a house under Article 60 shall be a sum equal to the rent, excluding rates, which might reasonably be expected to have been paid by a tenant in occupation of the house during the period for which possession of the house was retained by the Executive under Article 60 disregarding the value of any improvements carried out by the Executive during that period.

(4) Subject to paragraph (5), where the Executive acquires a possessed house, whether by agreement or otherwise, the purchase price or, as the case may be, the amount of compensation, to be paid by the Executive in respect of that house shall be assessed by reference to the value of the house at the date upon which the Executive took possession under Article 60.

(5) Notwithstanding anything contained in paragraph (4), where the Executive acquires in pursuance of a vesting order a house—

- (a) which is situated in a proposed re-development area or a housing action area, and
- (b) which, at the date on which the Executive took possession of it under Article 60, was unfit for human habitation and was not capable at reasonable expense, of being rendered fit for human habitation,

then, for the purpose of Article 91, the house shall be treated as if it were included in a re-development scheme approved under Chapter III or a housing action area under Chapter IV.

(6) Where (for whatever reason) the Executive does not acquire a possessed house, the compensation payable under paragraph (3) shall

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include a sum equal to the cost of making good any damage to the house which may have occurred during the period specified in that paragraph, (except in so far as the damage has been made good during that period by the Executive).

Power to secure or demolish unoccupied premises

63.—(1) Where the Executive is satisfied that action is necessary to prevent damage to, or otherwise to protect, housing accommodation, it may serve upon the owner of any unoccupied premises (in this Article referred to as “the owner”) a notice requiring him within such time, not being less than 7 days, as the Executive may specify in the notice—

- (a) to execute such works to the unoccupied premises including works to secure those premises, or
- (b) to take such steps for demolishing the unoccupied premises, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition,

as the Executive may consider necessary.

(2) Without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954, the Executive shall affix to the premises a copy of the notice served under paragraph (1).

(3) Where the Executive—

- (a) is unable to establish the identity or whereabouts of the owner of unoccupied premises, and
- (b) has affixed a notice to the premises requiring the owner to take steps in accordance with paragraph (1)(b),

the Executive shall publish a copy of the notice in one or more than one newspaper circulating in the locality.

(4) Where a notice under paragraph (1) requires the owner of unoccupied premises to demolish those premises, or any part thereof, the owner may, within the period specified in the notice, make representations to the Department, and the Department shall notify the Executive or, where paragraph (10) applies, the district council which is acting as the agent of the Executive, that the notice shall not have effect while the Department is considering those representations.

(5) The Department, after considering the representations which have been made to it, shall inform the owner—

- (a) that the notice served under paragraph (1) shall have effect from a date specified by the Department, or
- (b) that the notice shall not have effect,

and the Department shall inform the Executive of its decision accordingly.

(6) Where an owner so requests in writing, the Executive may carry out on his behalf the works specified in a notice under paragraph (1) and

may charge upon the owner the costs thereof, and such costs may be recovered summarily as a civil debt.

(7) A notice under paragraph (1) served upon an owner of unoccupied premises shall not have effect where the owner undertakes in writing within the time specified in the notice, to carry out within a period acceptable to the Executive such works as are necessary to render the unoccupied premises suitable for use and to prevent damage to, or to otherwise protect housing accommodation.

(8) Where an owner of unoccupied premises—

(a) fails to act within the time specified in accordance with a notice under paragraph (1), or

(b) defaults upon an undertaking given under paragraph (7),

the Executive may carry out the works specified in the notice and such works shall be deemed to have been carried out in response to a request by the owner under paragraph (6).

(9) Where it appears to the Executive that there is an urgent necessity to do so, it may, with the consent of the Department, carry out upon unoccupied premises such works as might be specified in a notice under paragraph (1) without service of such a notice upon the owner, but shall immediately inform the owner (if known) of the works which it has carried out upon the premises.

(10) The Executive may make and carry into effect an agreement with any district council whereby the council may act as agent for the Executive in the exercise of the functions conferred upon the Executive by this Article and the Executive shall send a copy of any such agreement to the Department.

Duration of Chapter V

64.—(1) This Chapter shall remain in force until 9th November 1981 and shall then cease to have effect unless continued in force by an order under this Article.

(2) Without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954, the Department may by order, made subject to affirmative resolution, provide—

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(a) that all or any of the provisions of this Chapter which are for the time being in force (including any in force by virtue of an order under this Article) shall continue in force for a period not exceeding two years from the coming into operation of the order;

(b) that all or any of the said provisions which are for the time being in force shall cease to be in force; or

(c) that all or any of the said provisions which are not for the time being in force shall come into force again and remain in force for a period not exceeding two years from the coming into operation of the order.

PART IV

GRANTS

CHAPTER I

GRANTS TOWARDS WORKS OF IMPROVEMENT, REPAIR AND CONVERSION

Interpretation, etc.

65.—(1) In this Chapter—

“appropriate percentage” has the meaning assigned to it by Article 68;

“certified date”, in relation to a house in respect of which an application for a grant has been approved, means the date certified by the Executive as the date on which the house first becomes fit for occupation after the completion of the relevant works to the satisfaction of the Executive;

“disabled occupant” means a disabled person for whose benefit it is proposed to carry out any of the relevant works;

“disabled person” means—

(a) any person who is registered in pursuance of arrangements made by a Health and Social Services Board under Article 15(1) of the Health and Personal Social Services (Northern Ireland) Order 1972, and

(b) any other person who in the opinion of a Health and Social Services Board would qualify for registration under the arrangements referred to in that paragraph;

“farmhouse”, in relation to any farm, means the house of a person who is engaged in carrying on and directing agricultural operations on that farm;

“grant” means a grant of a description specified in Article 66(2);

“Health and Social Services Board” means such a Board established under the Health and Personal Social Services (Northern Ireland) Order 1972;

“house for a disabled occupant” means a house which—

(a) is a disabled occupant’s only or main residence when an application for a grant in respect of it is made, or

(b) is likely in the opinion of the Executive to become a disabled occupant’s only or main residence not later than the expiry of a reasonable period after the completion of the relevant works;

“improvement” includes alteration and enlargement and in relation to a house for a disabled occupant, includes the carrying out of works required to make it suitable for his welfare, accommodation or employment, and any reference to works required for the provision or improvement of a house (whether generally or in any particular respect) includes a reference to any works of repair or replacement needed (in the opinion of the Executive) for the

purpose of enabling the house to which the improvement relates to attain the relevant standard; PART IV

“the relevant standard” means—

- (a) in relation to an improvement grant, the required standard referred to in Article 71;
- (b) in relation to an intermediate grant, the full standard or, as the case may require, the reduced standard, referred to in Article 76; and
- (c) in relation to a repairs grant, the relevant standard of repair referred to in Article 79;

“the relevant works” has the meaning assigned to it by Article 67(2)(b); and

“standard amenities” has the meaning assigned to it by Article 75.

(2) Orders made under this Chapter shall be subject to affirmative resolution.

Grants for provision, improvement and repair of houses

66.—(1) Grants shall be payable by the Executive in accordance with this Chapter towards the cost of works required for—

- (a) the provision of houses by the conversion of houses or other buildings,
- (b) the improvement of houses, and
- (c) the repair of houses,

where the provision, improvement or repair is by a person other than the Executive.

(2) The grants referred to in paragraph (1) are—

- (a) an “improvement grant” in respect of works required for the provision of a house (as mentioned in paragraph (1)(a)) or for the improvement of a house not being works falling entirely within paragraph (2)(b);
- (b) an “intermediate grant” in respect of—
 - (i) works required for the improvement of a house by the provision of standard amenities which it lacks (including works such as are referred to in Article 74(4) (b)); or
 - (ii) works required for the provision for a house for a disabled occupant of any standard amenity where an existing amenity of the same description is not readily accessible to him, by reason of his disability;
- (c) a “repairs grant” in respect of works of repair or replacement relating to a house, not being works associated with other works required for the provision (as mentioned in paragraph (1)(a)) or improvement of the house.

General provisions relating to applications for grants

67.—(1) No grant shall be paid by the Executive unless an application is made to it in accordance with this Chapter.

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(2) An application for a grant shall—

- (a) specify the premises to which the application relates;
- (b) contain particulars of the works in respect of which the grant is sought (in this Chapter referred to as “the relevant works”) and an estimate of their cost; and
- (c) contain such other particulars as may for the time being be specified to the Executive by the Department.

(3) The Executive shall not, except with the consent of the Department, approve an application for a grant unless it is satisfied that in relation to every parcel of land on which the relevant works are to be or have been carried out—

- (a) the applicant has a fee simple (including a fee farm) estate in possession or a leasehold estate in possession of which not less than 5 years remain unexpired at the date of the application; or
- (b) the applicant is entitled (otherwise than as a mortgagee or chargeant not in possession) to dispose, whether with or without the consent of any other person, of any such estate as is mentioned in sub-paragraph (a); or
- (c) in the case of an application for an intermediate grant or a repairs grant, the applicant is a protected or statutory tenant under the Rent (Northern Ireland) Order 1978 and his landlord has given his written consent to the execution of the works.

(4) Where the consent of any other person is necessary to enable an applicant to dispose of his estate in the house, the Executive shall not entertain the application unless that other person consents to it being made, but subject to that, no provision contained in any deed, will or other instrument whatsoever shall operate to restrict the right of an applicant to apply for or to receive a grant.

(5) The Executive may pay a grant to any person in whom the estate in a house of an applicant for a grant becomes vested by assignment or operation of law.

(6) If the Department has given to the Executive directions applying to any application for a grant, which is of a description specified in the directions, the Executive shall not approve an application to which those directions apply except with the consent of the Department.

(7) The Executive shall not approve an application for a grant if the relevant works have been begun unless it is satisfied that there were good reasons for beginning the works before the application was approved.

(8) Except in so far as this Chapter and paragraph 5 of Schedule 12 otherwise provide, the Executive may not entertain an application for a grant if the relevant works are or include—

- (a) works which were the relevant works in relation to an application previously approved under this Chapter; or
- (b) works which were relevant works in relation to an application

approved under Part VI of the Housing (Northern Ireland) Order 1976; or

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(c) works specified in an application for a grant under Part I of the Housing Act (Northern Ireland) 1971 which was approved; or

1971 c.16

(d) works specified in an application for a grant under Part III of the Housing on Farms Act (Northern Ireland) 1972 which was approved,

1972 c.3

and the applicant for the grant is, or is the personal representative of, the person who made the earlier application.

(9) If, after an application for a grant has been approved, the Executive is satisfied that owing to circumstances beyond the control of the applicant the relevant works can not be carried out on the basis of the estimate contained in the application it may, on receiving a further estimate, redetermine the estimated expense in relation to the grant and make such other adjustments relating to the amount of the grant as appear to it to be appropriate.

(10) The amount of a grant shall not be increased by virtue of paragraph (9) beyond the amount which could have been notified as the amount of the grant when the application was approved if the estimate contained in the application had been for the same amount as the further estimate.

Appropriate percentage

68.—(1) Subject to paragraphs (2) and (3), in this Chapter “the appropriate percentage” (which is relevant for determining the amount, or the maximum amount, of any grant) shall be 75 per cent.

(2) Subject to paragraph (3)—

(a) where a house is subject to a protected or statutory tenancy under the Rent (Northern Ireland) Order 1978; or

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(b) where it appears to the Executive that an applicant will not without undue hardship be able to finance the cost of so much of the relevant works as is not met by the grant;

the appropriate percentage for any grant shall be 90 per cent.

(3) Where the net annual value of the house is less than £60, the appropriate percentage shall, in relation to an application for an intermediate grant or a repairs grant, be 100 per cent.

(4) The Department may, with the consent of the Department of Finance, by order—

(a) vary all or any of the percentages specified in paragraphs (1) to (3);

(b) repeal paragraphs (2) and (3) and make such amendments to this Article as are consequential thereon; and, without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954, an order made under sub-paragraph (a) may vary the percentage in relation to particular cases or classes of case.

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Certificates of future occupation

69.—(1) The Executive shall not entertain an application for a grant, other than a repairs grant or an intermediate grant to which Article 67(3)(c) applies, unless the application is accompanied by a certificate under this Article as to future occupation of the house or, as the case may be, each of the houses for the provision or improvement of which the grant is sought.

(2) A certificate of future occupation shall be either a certificate of owner-occupation under paragraph (3) or (4) or a certificate of availability for letting under paragraph (5).

(3) Subject to paragraph (4), for the purposes of this Chapter a “certificate of owner-occupation” is a certificate stating that the applicant for the grant intends that, on or before the first anniversary of the certified date and throughout the period of 4 years beginning on that first anniversary, the house will be his only or main residence and will be occupied exclusively by himself and members of his household (if any).

(4) For the purposes of this Chapter, in a case where an application for a grant is made by the personal representatives of a deceased person or by trustees, a “certificate of owner-occupation” is a certificate stating that the applicants are personal representatives or trustees and have been assured by the person concerned that, on or before the first anniversary of the certified date and throughout the period of 4 years beginning on that first anniversary, the house will be the only or main residence of, and exclusively occupied by, a person who, under the will or intestacy or, as the case may require, under the terms of the trust or settlement, is beneficially entitled to an interest in the house or the proceeds of sale thereof and members of his household (if any).

(5) For the purposes of this Chapter a “certificate of availability for letting” is a certificate stating that the applicant for the grant intends that, throughout the period of 5 years beginning with the certified date—

(a) the house will be let or available for letting as a residence, and not for a holiday, to a person other than a member of the applicant’s family; or

(b) the dwelling will be occupied or available for occupation by an approved worker, that is to say, a worker on a farm which is certified by the Department of Agriculture to be of such a nature and extent as to provide full-time employment for a worker in agricultural operations on the farm.

(6) Where any house, in respect of which a grant, other than a repairs grant has been paid, is not in fact occupied in accordance with the statement of the applicant in the certificate of future occupation, the Executive may forthwith require the applicant or his personal representatives to repay the grant, or such part thereof as it may think fit, together with compound interest which shall be payable thereon as from the certified date, with yearly rests, at the prescribed rate.

Net annual value limit on improvement and repairs grants

70.—(1) If an application for an improvement grant in respect of works required for the improvement of a house or houses is accompanied by a certificate of owner-occupation relating to that house or, as the case may be, one of those houses, the Executive shall not approve the application if, on the date of the application, the net annual value of the house to which that certificate relates is in excess of the relevant limit.

(2) If an application for an improvement grant in respect of works required for the provision of a house or houses by the conversion of any premises, which consist of or include a house or two or more houses, is accompanied by a certificate of owner-occupation in respect of that house or, as the case may be, one of those houses, the Executive shall not approve the application if on the date of the application—

- (a) the net annual value of that house or, as the case may be, any of those houses, or
- (b) where the certificate relates to a house to be provided by the conversion of premises consisting of or including two or more houses, the aggregate of the net annual values of those houses,

is in excess of the relevant limit.

(3) The Executive shall not approve an application for a repairs grant in respect of a house or houses other than a house or houses which is or are subject to a protected or statutory tenancy under the Rent (Northern Ireland) Order 1978, if, on the date of the application, the net annual value of the house or, as the case may be, one of those houses, to which the application relates is in excess of the relevant limit.

1978 NI 20

(4) In this Article “the relevant limit” means—

- (a) in relation to a house falling within paragraph (1), not being a house falling within sub-paragraph (b) or (c)£225,
- (b) in relation to a house falling within paragraph (1), being a house for a disabled occupant where it appears to the Executive that, on the date on which an application for an improvement grant in respect of works required for the improvement of such a house is approved, the applicant would not without undue hardship be able to pay the cost of the relevant works without the assistance of an improvement grant£400,
- (c) in relation to a house falling within paragraph (1) where the house is intended to be or is being used as a farmhouse and where the Department of Agriculture certifies that, in its opinion, it is necessary for the efficient working of the farm on which the house is situated that there should be a proper farmhouse thereon£300,
- (d) in relation to houses converted as mentioned in paragraph (2)£350,
- (e) in relation to a house falling within paragraph (3), not being a house falling within sub-paragraph (f)£130,

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(f) in relation to a house falling within paragraph (3), where it appears to the Executive that on the date on which an application for a repairs grant is approved the applicant would not without undue hardship be able to pay the cost of the relevant works without the assistance of a repairs grant£225.

(5) The Department may, with the consent of the Department of Finance, by order vary the relevant limits.

Required standard for improvement grants

71.—(1) The Executive shall pay an improvement grant if—

(a) an application for such a grant, made in accordance with this Chapter, is approved by it; and

(b) the conditions for the payment of the grant are fulfilled,

and subject to this Chapter, the Executive may approve an application for an improvement grant in such circumstances as it thinks fit.

(2) The Executive shall not approve an application for an improvement grant unless it is satisfied that, on completion of the relevant works, the house or, as the case may be, each of the houses to which the application relates will attain the required standard.

(3) For the purposes of this Article a house shall be taken, subject to paragraphs (4) and (5), to attain the required standard if the following conditions are fulfilled with respect to it, namely—

(a) that it is provided with all the standard amenities for the exclusive use of its occupants; and

(b) that it is in good repair (disregarding the state of internal decorative repair) having regard to its age and character and the locality in which it is situated; and

(c) that it conforms to such requirements with respect to construction and physical condition and the provision of services and amenities as may for the time being be specified to the Executive by the Department for the purposes of this Article; and

(d) that it is likely in the opinion of the Executive to provide satisfactory housing accommodation for a period of 15 years from the completion of the relevant works.

(4) If it appears to the Executive that it is not practicable at reasonable expense for a house to which an application for an improvement grant relates—

(a) to be provided with all the standard amenities, or

(b) to attain the standard of repair required by the condition in paragraph (3)(b), or

(c) to conform in every respect with the requirements referred to in paragraph (3)(c),

the Executive may, in the case of that house, reduce the required standard by dispensing with the condition in question to such extent as will enable it, if it thinks fit, to approve the application.

(5) If it appears to the Executive reasonable to do so in the case of any house to which an application for an improvement grant relates, it may reduce the required standard by substituting for the period specified in paragraph (3)(d) such shorter period of not less than 10 years as appears to it to be appropriate in the circumstances.

Determination of estimated expense in relation to improvement grants

72.—(1) Where the Executive approves an application for an improvement grant it shall determine the amount of the expenses which, in its opinion, are proper to be incurred for the execution of the relevant works and shall notify the applicant of that amount; and, in relation to an improvement grant which has been approved, the amount so notified is in this Article and Article 73 referred to as “the estimated expense” of the relevant works.

(2) Subject to paragraph (3), not more than 50 per cent of the estimated expense of any works shall be allowed for works of repair and replacement.

(3) Where an application for an improvement grant is in respect of a house situated in a housing action area, the percentage specified in paragraph (2) shall be not more than 70 per cent.

(4) If the applicant satisfies the Executive that the relevant works cannot be or could not have been carried out without the carrying out of additional works and that this could not have been reasonably foreseen at the time the application was made, the Executive may, subject to paragraph (2) or as the case may be paragraph (3), determine a higher amount as the amount of the estimated expense.

(5) The Department may by order—

(a) vary the percentages specified in paragraphs (2) and (3);

(b) repeal paragraph (3) and make such amendments to this Article as are consequential thereon;

and, without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954, an order made under sub-paragraph (a) may specify different percentages in respect of different cases or classes of case.

1954 c.33

Amount of improvement grants

73.—(1) Subject to this Article, the amount of an improvement grant shall be such as may be fixed by the Executive when it approves the application for the grant but shall not exceed the appropriate percentage of the eligible expense.

(2) Together with the notification under Article 72(1), the Executive shall send to the applicant a notification of the amount of the grant.

(3) Except in a case or description of case in respect of which the Department approves a higher eligible expense, the eligible expense for the purposes of an improvement grant shall be so much of the estimated expense as does not exceed the relevant limit; and, subject to para-

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graphs (4) and (6), "the relevant limit", in relation to an improvement grant, is the amount for the house, or if the application for the grant relates to more than one house the total of the amounts for each of the houses, applicable under the following sub-paragraphs, that is to say—

- (a) for a house which is improved by the relevant works, £5,000 or such other amount as the Department may by order specify; and
- (b) for a house which is provided by the conversion of a house or other building, £5,800 or such other amount as the Department may by order specify.

(4) If the Executive is satisfied in a particular case that there are good reasons for increasing the amount which, apart from this paragraph would constitute the relevant limit, it may substitute for that amount such higher amount as the Department may approve.

(5) In any case where, after the amount of an improvement grant has been fixed under paragraph (1) or under Article 49(1) of the Housing (Northern Ireland) Order 1976, the Executive, in exercise of its powers under Article 72(4), substitutes a higher amount as the amount of the estimated expense, the eligible expense shall be re-calculated under paragraph (3) and if on that re-calculation, the amount of the eligible expense is greater than it was at the time when the application was approved,—

- (a) the amount of the improvement grant shall be increased accordingly; and
- (b) the Executive shall notify the applicant of the increased amount of the grant.

(6) In any case where—

- (a) a specified grant, within the meaning of paragraph (7), has been made in respect of a house, and
- (b) within the period of 15 years beginning on the date on which the grant was paid, or if it was paid by instalments the date on which the last instalment was paid, an improvement grant is made under this Chapter in respect of that house,

the amount of that improvement grant shall not exceed that of an improvement grant calculated by reference to the relevant limit as provided in paragraph (3), reduced by the unrepaid amount, if any, of that previous grant.

(7) For the purposes of paragraph (6)(a), a specified grant means any of the following, namely—

- (a) a contribution under Part I of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946, or
- (b) a grant under Part III of the Housing (No. 2) Act (Northern Ireland) 1946, or
- (c) a grant under the Hill Farming Act 1946, or

1946 c.4

1946 c.20

1946 c.73

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| (d) a grant under Part I, Part II or Part III of the Housing on Farms Act (Northern Ireland) 1950, or | PART IV
1950 c.21 |
| (e) a conversion grant or improvement grant within the meaning of Part II of the Housing Act (Northern Ireland) 1956, or | 1956 c.10 |
| (f) a standard grant within the meaning of Part I of the Housing Act (Northern Ireland) 1963, or | 1963 c.26 |
| (g) a grant under Part II of the Agriculture Act 1967, or | 1967 c.22 |
| (h) a grant under Part II of the Agriculture Act 1970, or | 1970 c.40 |
| (i) an improvement grant or a standard grant within the meaning of Part I of the Housing Act (Northern Ireland) 1971, or | 1971 c.16 |
| (j) a grant under Part I, Part II or Part III of the Housing on Farms Act (Northern Ireland) 1972, or | 1972 c.3 |
| (k) an improvement grant, intermediate grant or repairs grant under Part VI of the Housing (Northern Ireland) Order 1976; or | 1976 NI 25 |
| (l) an improvement grant, intermediate grant or repairs grant within the meaning of this Chapter. | |

Intermediate grants

74.—(1) The Executive shall pay an intermediate grant if—

- (a) an application for such a grant, made in accordance with this Chapter, is approved by it; and
- (b) the conditions for the payment of the grant are fulfilled.

(2) Subject to paragraph (3), an application for an intermediate grant shall—

- (a) specify the standard amenity or amenities which it is intended to provide by the relevant works; and
- (b) if some only of the standard amenities are specified as mentioned in sub-paragraph (a), state whether the house is already provided with the remainder; and
- (c) contain a statement, with respect to each of the standard amenities specified as mentioned in sub-paragraph (a), whether, to the best of the knowledge and belief of the applicant, the house has been without that amenity for a period of not less than 12 months ending with the date on which the application is made.

(3) An application for an intermediate grant in respect of a house for a disabled occupant may contain, as an alternative, in relation to any of the standard amenities specified as mentioned in paragraph (2)(a), to a statement under paragraph (2)(c), a statement that the house possesses such an amenity but that it is not or will not be readily accessible to the disabled occupant, by reasons of his disability.

(4) Subject to paragraph (5), the Executive shall not approve an application for an intermediate grant unless it is satisfied, with respect to

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each of the standard amenities specified as mentioned in paragraph (2)(a), either—

- (a) that the house concerned has been without the amenity in question for a period of not less than 12 months ending with the date on which the application is made; or
- (b) that the house is provided with the amenity in question on the date of the application but the relevant works, exclusive of those for the provision of that amenity, involve interference with or replacement of that amenity and it would not be reasonably practicable to avoid the interference or replacement.

(5) Where an application for an intermediate grant in respect of a house for a disabled occupant contains a statement under paragraph (3), this Article shall have effect, in relation to any amenity mentioned in that statement, as if for paragraph (4) there were substituted the following paragraph—

“(4) The Executive shall not approve an application for an intermediate grant unless it is satisfied that any existing amenity mentioned in the statement under paragraph (3) is not or will not be readily accessible to the disabled occupant by reason of his disability.”.

Standard amenities

75.—(1) Subject to paragraph (2), the “standard amenities” for the purposes of this Chapter are the amenities which are described in the first column of Part I of Schedule 5 and conform to such of the provisions of Part II of that Schedule as are applicable.

(2) The Department may by order vary the provisions of Schedule 5 and any such order may contain such transitional or other supplemental provisions as appear to the Department to be expedient.

Approval of applications for intermediate grants

76.—(1) The Executive shall not approve an application for an intermediate grant unless it is satisfied that, on completion of the relevant works, the house or, as the case may be, each of the houses to which the application relates will attain the full standard, or if any of paragraphs (3) to (6) applies, the reduced standard.

(2) For the purposes of this Article a house shall be taken to attain the full standard if the following conditions are fulfilled with respect to it, namely—

- (a) that it is provided with all the standard amenities for the exclusive use of its occupants; and
- (b) that it is in good repair (disregarding the state of internal decorative repair) having regard to its age and character and the locality in which it is situated; and

- (c) that it conforms to such requirements with respect to thermal insulation as may for the time being be specified by the Department for the purposes of this paragraph; and
- (d) that it is in all other respects fit for human habitation, construing that expression in accordance with Article 46; and
- (e) that it is likely to be available for use as a house for a period of 10 years or such other period as may for the time being be specified to the Executive by the Department for the purposes of this paragraph.

(3) Where an application for an intermediate grant contains a statement, and the Executive is satisfied, that it is not practicable at reasonable expense for the house to which the application relates to be provided with all the standard amenities, it may dispense with the condition in paragraph (2)(a).

(4) If it appears to the Executive that it is not practicable at reasonable expense for a house to which an application for an intermediate grant relates—

- (a) to attain the standard of repair required by the condition in paragraph (2)(b),
- (b) to conform in every respect with the requirements referred to in paragraph (2)(c), or
- (c) to comply with the condition in paragraph (2)(d),

the Executive may in the case of that house dispense with the condition in question to such extent as will enable it, if it thinks fit, to approve the application.

(5) If, in relation to an application for an intermediate grant, it appears to the Executive that the applicant will not without undue hardship be able to finance the cost of all works necessary to enable any house to which the application relates to attain the full standard, it may in the case of that house, dispense, in whole or in part, with any of the conditions in paragraph (2)(a) to (d), to such extent as will enable it, if it thinks fit, to approve the application.

(6) If it appears to the Executive reasonable to do so in the case of any house to which an application for an intermediate grant relates, it may in the case of that house vary the condition in paragraph (2)(e) by substituting for the period 10 years or such other period as may for the time being be specified as mentioned in that paragraph, such shorter period as appears to it to be appropriate in the circumstances.

(7) If, in relation to any house, the Executive by virtue of paragraphs (3), (4), (5) or (6) dispenses, in whole or in part, with any of the conditions in paragraph (2)(a) to (d) or varies the condition in subparagraph (e) of that paragraph, then for the purposes of this Article the house concerned shall be taken to attain the reduced standard, if, subject to that dispensation or variation, the conditions in paragraph (2) are fulfilled with respect to it.

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Approval of certain applications for intermediate grants

77.—(1) Subject to Articles 67, 69, 74(2) and (4) and 76, the Executive shall approve an application for an intermediate grant which is duly made in accordance with this Chapter.

(2) Where the relevant works specified in an application for an intermediate grant include works of repair or replacement which go beyond those needed, in the opinion of the Executive, for the purposes of enabling the house concerned to attain the full standard or the reduced standard, as the case may require, the Executive may, with the consent of the applicant, treat the application as varied so that the relevant works—

- (a) are confined to works other than works of repair or replacement, or
- (b) include only such works of repair or replacement as (taken with the rest of the relevant works) will secure, in the opinion of the Executive, that the house will attain the full standard or the reduced standard as the case may require,

and may approve the application as so varied.

(3) In this Article “the full standard” and “the reduced standard” have the same meanings as in Article 76.

Determination of estimated expense and amount of intermediate grants

78.—(1) Where the Executive approves an application for an intermediate grant, it shall determine separately—

- (a) the amount of the expenses which in its opinion are proper to be incurred for the execution of those of the relevant works which consist of works of repair or replacement, and
- (b) the amount of the expenses which in its opinion are proper to be incurred for the execution of those of the relevant works which relate solely to the provision of the standard amenities,

and shall notify the applicant of the amounts determined by it under this paragraph.

(2) If the applicant satisfies the Executive that the relevant works cannot be or could not have been carried out without the carrying out of additional works and that this could not have been reasonably foreseen at the time the application was made, the Executive may determine a higher amount under either or both of sub-paragraphs (a) and (b) of paragraph (1).

(3) Except in a case or description of case in respect of which the Executive approves a higher eligible expense, the eligible expense for the purposes of an intermediate grant shall be the aggregate of—

- (a) so much of the amount determined under paragraph (1)(a) as does not exceed £2,000 or such other amount as the Department may by order specify; and
- (b) so much of the amount determined under paragraph (1)(b) as

does not exceed the total of the amounts specified in the second column of Part I of Schedule 5 in relation to each of the standard amenities which are to be provided by the relevant works.

(4) In any case where the relevant works make provision for more than one standard amenity of the same description, only one amenity of that description shall be taken into account under paragraphs (1) to (3).

(5) Subject to paragraph (6), the amount of an intermediate grant shall be the appropriate percentage of the eligible expense and, together with the notification under paragraph (1), the Executive shall send to the applicant a notification of the amount of the grant.

(6) Where, after the amount of an intermediate grant has been notified to the applicant under paragraph (5), the Executive, in exercise of its powers under paragraph (2), determines a higher amount under either or both sub-paragraph (a) and (b) of paragraph (1), the eligible expense shall be re-calculated under paragraph (3) and if, on that re-calculation, the amount of the eligible expense is greater than it was at the time when the application was approved—

- (a) the amount of the intermediate grant shall be increased accordingly; and
- (b) the Executive shall notify the applicant of the increased amount of the grant.

Repairs grants

79.—(1) The Executive shall pay a repairs grant if—

- (a) an application for such grant, made in accordance with this Chapter, is approved by it, and
- (b) the conditions for the payment of the grant are fulfilled,

and, subject to this Chapter, the Executive may approve an application for a repairs grant in such circumstances as it thinks fit.

(2) The Executive shall not approve an application for a repairs grant unless it is satisfied that on completion of the relevant works the house or, as the case may be, each of the houses to which the application relates will attain the relevant standard of repair.

(3) Without prejudice to the discretion of the Executive to approve or decline to approve an application for a repairs grant, if, in the opinion of the Executive, the relevant works are more extensive than is necessary for the purpose of securing that the house or, as the case may be, any of the houses to which the application relates will attain the relevant standard of repair, the Executive may, with the consent of the applicant, treat the application as varied so that the relevant works include only such works as seem to the Executive to be necessary for that purpose, and may approve the application as so varied.

(4) If it appears to the Executive that it is not practicable at reasonable expense for a house to which an application for a repairs grant relates to

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attain the relevant standard of repair it may dispense with the condition in paragraph (2).

(5) If, in relation to an application for a repairs grant, it appears to the Executive that the applicant will not without undue hardship be able to finance the cost of all the works necessary to enable the house, or, as the case may be, any of the houses to which the application relates, to attain the relevant standard of repair it may dispense with the condition in paragraph (2).

(6) Without prejudice to paragraphs (4) and (5), the Executive may, with the consent of the Department, approve an application for a repairs grant notwithstanding that on completion of the relevant works the house, or, as the case may be, any of the houses to which the application relates, will not attain the relevant standard of repair.

(7) For the purposes of this Article a house shall be taken to attain the relevant standard of repair if it is in good repair (disregarding the state of internal decorative repair) having regard to its age and character and the locality in which it is situated.

Determination of estimated expense and amount of repairs grants

80.—(1) Where the Executive approves an application for a repairs grant, it shall determine the amount of the expense which in its opinion is proper to be incurred for the execution of the relevant works and shall notify the applicant of that amount.

(2) If the applicant satisfies the Executive that the relevant works cannot be or could not have been carried out without the carrying out of additional works and that this could not have been reasonably foreseen at the time the application was made, the Executive may determine a higher amount under paragraph (1).

(3) Except in a case or description of case in respect of which the Department approves a higher eligible expense, the eligible expense for the purposes of a repairs grant shall be so much of the amount determined under paragraph (1) as does not exceed £2,000 or such other amount as the Department may by order specify.

(4) The amount of a repairs grant shall be such as may be fixed by the Executive when it approves the application for the grant but, subject to paragraph (5), shall not exceed the appropriate percentage of the eligible expense and, together with the notification under paragraph (1), the Executive shall send to the applicant a notification of the amount of the grant.

(5) In any case where, after the amount of a repairs grant has been notified to the applicant under paragraph (4), the Executive, in exercise of its powers under paragraph (2), determines a higher amount under paragraph (1), the eligible expense shall be re-calculated under paragraph (3), and if, on that re-calculation, the amount of the eligible expense is greater than it was at the time when the application was approved—

- (a) the amount of the repairs grant shall be increased accordingly; and
- (b) the Executive shall notify the applicant of the increased amount of the grant.

(6) Where, within a period of 10 years, two or more successive repairs grants are made in respect of the same house, the aggregate amount of such grants shall not exceed that of a repairs grant calculated by reference to the limit of the eligible expense as provided in paragraph (3).

Power of Department to prescribe grant conditions

81.—(1) The Department may by order specify conditions to be observed with respect to the future occupation of houses where an improvement grant, an intermediate grant or a repairs grant has been paid by the Executive.

(2) Without prejudice to the generality of paragraph (1), an order under the paragraph may—

- (a) specify the period during which the conditions shall apply;
- (b) require that the house to which the grant relates shall—
 - (i) be occupied exclusively by the applicant and members of his household (if any) as his only or main residence, or
 - (ii) be let or available for letting as a residence, and not for a holiday, to a person other than a member of the applicant's family;
- (c) contain provisions as to the enforceability of the grant conditions; and
- (d) require the repayment of the grant, together with compound interest thereon, in the event of a breach of a grant condition, and may provide that the grant conditions shall cease to be in force in the event of voluntary repayment of the grant together with compound interest thereon.

(3) The period specified under paragraph (2)(a) shall not exceed 5 years beginning with the certified date.

(4) For the purposes of paragraph (2)(d) compound interest shall be payable as from the certified date, with yearly rests, at the prescribed rate.

Statement of reasons for refusing application for grant or fixing grant at less than maximum

82. If the Executive—

- (a) does not approve an application for a grant, or
- (b) fixes the amount of an improvement grant or a repairs grant at less than the appropriate percentage of the eligible expense within the meaning of Article 73 or, as the case may be, Article 80,

it shall state to the applicant in writing its reasons for doing so.

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Grant restricted to applicant and his personal representatives

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

(2) If, before the certified date an applicant for a grant ceases to have such an estate as is referred to in Article 67(3)—

- (a) no grant shall be paid or, if any instalment of the grant was paid before the applicant ceased to have such an estate, no further instalments shall be paid; and
- (b) any instalment of the grant which has been paid to the applicant shall, on being demanded by the Executive, forthwith become repayable to it by the applicant together with interest thereon from the date on which it was paid until repayment at the prescribed rate.

Payment of grants

84.—(1) In approving an application for a grant the Executive may require as a condition of paying the grant that the relevant works are carried out within such time, not being less than 12 months, as the Executive may specify or such further time as it may allow.

(2) Where the Executive is satisfied under Article 72(3), 78(2) or 80(2) that the relevant works cannot be or could not have been carried out without the carrying out of additional works, it may, without prejudice to paragraph (1), allow further time as the time within which the relevant works and the additional works are to be carried out.

(3) A grant may be paid after the completion of the works towards the cost of which it is payable or part of it may be paid in instalments as the works progress and the balance after the completion of the works.

(4) Where the grant is paid by instalments the aggregate of the instalments paid shall not at any time before the completion of the works exceed three quarters, or such other fraction as the Department may by order determine, of the aggregate cost of the works executed up to that time.

(5) The payment of a grant or of any part thereof shall be conditional upon the works or the corresponding part of the works being executed to the satisfaction of the Executive.

(6) If an instalment of a grant is paid before the completion of the works and the works are not completed within the time specified in paragraph (7), that instalment and any further sums paid by the Executive as part of the grant shall, on being demanded by the Executive, forthwith become payable to it by the person who made the application for the grant or his personal representatives and shall carry interest from the date on which it was paid until repayment at the prescribed rate.

(7) Where the Executive has specified no time under paragraph (1) for the completion of the works, the time referred to in paragraph (6) is

12 months from the date on which the instalment is paid or such further time as the Executive may allow; and where it has specified a time under paragraph (1) or allowed further time under that paragraph or paragraph (2) the time referred to in paragraph (6) is the time so specified or allowed.

Power of the Executive to carry out improvements or repairs by agreement

85.—(1) Where a grant under this Chapter is payable (or might be paid on an application duly made and approved) towards the cost of carrying out works to a house, the Executive may enter into an agreement with any person having a requisite interest in the house to carry out—

(a) at his expense, or

(b) where the Department consents, at the Executive's expense, those works and any related works which are necessary or desirable.

(2) For the purposes of paragraph (1) a person has a requisite interest in a house if he has an estate in the land upon which the house is situated which is a fee simple (including fee farm) estate in possession or a leasehold estate in possession of which not less than 5 years remain unexpired.

CHAPTER II

HOME INSULATION GRANTS

Grants for home insulation

86.—(1) In accordance with such schemes as the Department may by order make, the Executive shall make grants towards the cost of works undertaken to improve the thermal insulation of houses.

(2) Schemes under this Article shall specify—

(a) the insulation works for which grant is to be available and the descriptions of houses which are to qualify, and

(b) the persons from whom applications are to be entertained in respect of different houses and categories of houses.

(3) The grant shall be such percentage of the cost of the works so qualifying, or such money sum (whichever is the lesser amount), as the Department may prescribe by order for each scheme.

(4) Schemes may provide for grants—

(a) to be made only to those applying on grounds of special need; or

(b) to be made, in the case of those so applying, on a higher scale prescribed by order under paragraph (3).

(5) For this purpose "special need" is to be determined by reference to such matters personal to the applicant as may be prescribed by the

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scheme, particularly age, disability, bad health and inability without undue hardship to finance the cost of the works.

(6) In the administration of this Article, the Executive shall comply with any directions given to it by the Department, particularly in matters relating to—

- (a) the way in which applications for grant are to be dealt with, and the priorities to be observed between applicants and different categories of applicants; and
- (b) the means of authenticating applications, so that grant is only given in proper cases, and of ensuring that the works are carried out to any standard specified in the applicable scheme.

(7) Orders made under this Article shall be subject to negative resolution and orders made under paragraph (3) or (4) shall be subject to the approval of the Department of Finance.

PART V

LAND ACQUISITION AND COMPENSATION

CHAPTER I

ACQUISITION AND DISPOSAL OF LAND

Acquisition of land by the Executive

87.—(1) The Executive may, for the purposes of its functions under this Order, acquire land by agreement or compulsorily.

(2) Where the Executive desires to acquire land compulsorily it may apply to the Department for an order (in this Order referred to as a “vesting order”) vesting the land in the Executive and the Department may make a vesting order.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications specified in Schedule 6, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(4) The power to make a vesting order in respect of land—

- (a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or
- (b) which is declared by or under any transferred provision to be inalienable;

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Northern Ireland Assembly.

In this paragraph “public body” has the same meaning as in section 148 of the Local Government Act (Northern Ireland) 1972.

1972 c.9

Disposal of land by the Executive

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88.—(1) The Executive may, in accordance with this Article, dispose of any land held by it.

(2) The Executive shall not dispose of any land at a consideration other than the best consideration that can reasonably be obtained, having regard to any covenants and conditions imposed by the Executive in relation to that land, except with the consent of the Department.

(3) Sections 128 to 132 of the Land Clauses Consolidation Act 1845 (sale of superfluous land) shall not apply in relation to any land disposed of by the Executive.

1845 c.18

CHAPTER II

LAND COMPENSATION MATTERS

Interpretation

89.—(1) For the purposes of this Chapter, a house which might have been the subject of a demolition order but which has, without the making of such an order, been vacated and demolished in pursuance of an undertaking for its demolition accepted by the Executive, shall be deemed to have been vacated in pursuance of a demolition order made and served at the date when the undertaking was accepted.

(2) For the purposes of this Chapter and Schedule 7—

“compulsory purchase value”, in relation to any estate in a house, means the compensation payable in respect of the compulsory purchase of that estate if that compensation fell to be assessed solely by reference to the rules set out in section 2 of the Acquisition of Land (Assessment of Compensation) Act 1919 and, in the case of a house subject to a clearance order, demolition order or closing order, if that order were a vesting order and that compensation fell to be so assessed;

1919 c.57

“demolition order” means an order under Article 35, but does not include such an order made in respect of a house already subject to a closing order, so far as it affects any part of the house in relation to which a payment under this Chapter or Schedule 7 has fallen to be made in respect of the closing order;

“estate”, in a house, does not include the estate of a tenant for a year or any period less than a year, or of a tenant whose sole right to possession is under the Rent (Northern Ireland) Order 1978;

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“site value”, in relation to the compulsory purchase of a house, means compensation in respect thereof assessed in accordance with Article 91.

Determination of unfit houses

90.—(1) Where land is acquired compulsorily or is proposed to be acquired compulsorily by the Executive for the purpose of any of its functions under Chapter III or IV of Part III and that land comprises a house in respect of which, in the opinion of the Executive, compensa-

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tion is or would be payable in accordance with Article 91, the Executive may make and submit to the Department an order, in such form as may be prescribed, declaring the house to be a house to which that Article applies.

(2) Before submitting to the Department an order under this Article in respect of any house, the Executive shall serve on every person appearing to it to have an estate in the house or, where the house has been acquired by the Executive, to have had an estate in the house immediately before its acquisition, a notice in such form as may be prescribed, stating the effect of the order and that it is about to be submitted to the Department for confirmation, and specifying the time (not being less than one month from the service of such notice) within which objection thereto can be made to the Department.

(3) If no objections are duly made by any of the persons on whom notices are required to be served, or if all the objections so made are withdrawn, the Department may confirm the order with or without amendment.

(4) If an objection is duly made by any of the persons on whom notices are required to be served and is not withdrawn, the Department shall, if either the person by whom the objection was made or the Executive so desires, afford to that person and the Executive an opportunity of appearing before and being heard either by the person holding or who held the inquiry into the making of the vesting order in respect of the house or by any other person appointed by the Department for the purpose, and the Department may thereafter confirm the order with or without amendment.

(5) Where the Department confirms an order under this Article in respect of a house, compensation in respect of the compulsory acquisition of that house by the Executive for the purpose of any of its functions mentioned in paragraph (1) shall be determined in accordance with Article 91.

Compensation for unfit houses

91.—(1) Where land included in an approved re-development scheme or in a housing action area includes land which comprises a house which is unfit for human habitation and is not capable at reasonable expense of being rendered fit for human habitation, the compensation to be paid in respect of the compulsory acquisition of the land comprising such house shall, subject to the following provisions of this Article, be the value, at the date of the acquisition, of the land as a site cleared of buildings and available for development in accordance with the requirements of the building regulations for the time being in force.

(2) The compensation to be paid in accordance with paragraph (1) in respect of the compulsory acquisition of any land, including the buildings thereon, shall, subject to paragraph (3), not exceed the compensation which would have been payable if paragraph (1) had not applied to the acquisition; and, for the purposes of this paragraph, the amount of

the compensation to be paid in accordance with paragraph (1) shall be deemed to include the amounts, if any, of any payments made or which fall to be made in respect of any house on that land under this Chapter.

(3) Where, in relation to the compulsory acquisition of land to which paragraph (1) applies, a person having an estate in the house thereon is, by virtue of that estate occupying that house or part of that house as a private dwelling, the compensation to be paid to that person in respect of the compulsory acquisition of his estate in that house or that part, together with the amounts, if any, of any payments made, or which fall to be made, to him in respect of that house or that part under this Chapter but excluding any compensation attributable to disturbance, severance or injurious affection, shall, notwithstanding anything in paragraph (1) or (2), not be less than—

- (a) where the house was acquired prior to 1st April 1976, 4 times the net annual value of the house at the date of acquisition of the land comprising the house or, as the case may be, 4 times the net annual value of that part of the house at that date;
- (b) where the house was acquired on or after 1st April 1976, $1\frac{3}{4}$ times the net annual value of the house at the date of acquisition of the land comprising the house or, as the case may be, $1\frac{3}{4}$ times the net annual value of that part of the house at that date.

(4) Where part of a house is occupied as a private dwelling and is not separately valued under the Rates (Northern Ireland) Order 1977, the Commissioner of Valuation may, on application by any person having an estate in the house or by the Executive, make such apportionment of the net annual value of the whole house as seems just, and his decision as to the amount to be apportioned to the part occupied as a private dwelling shall be final and conclusive, and that amount shall be taken to be the net annual value of that part for the purposes of this Article, but not further or otherwise.

1977 NI 28

Well maintained houses subject to demolition or closing orders

92.—(1) Where a house is vacated in pursuance of a demolition order or a closing order any person may within three months from the service by the Executive of a copy of the order, represent to it that the house in respect of which the order was made has been well maintained.

(2) If, leaving out of account any defects in the house arising out of any of the matters mentioned in Article 46(b) to (h), the representation made in respect of the house is correct, the Executive shall in accordance with this Article, make in respect of the house such payment, if any, as is authorised by Schedule 7.

(3) A payment under this Article shall, subject to paragraph (4), be made—

- (a) if the house was, at the date on which it was vacated, occupied by an owner thereof, to him or, if he has since died, to his personal representatives; or

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(b) if the house was not so occupied, to the person liable under any enactment, covenant or agreement to maintain and repair the house, and if more than one person is so liable, in such shares as the Executive considers equitable in the circumstances.

(4) If any person, other than those referred to in paragraph (3)(a) and (b), satisfies the Executive that the good maintenance of the house is attributable to a material extent to work carried out by him or at his expense, the Executive may, if it appears equitable in the circumstances, make the payment in whole or in part to that person.

(5) If, on receiving the representation, the Executive considers that the condition specified in paragraph (2) is not satisfied, it shall serve upon the person by whom the representation was made notice that the representation is not correct and that, unless the representation is confirmed on appeal under paragraph (6), a payment shall not be made under this Article.

(6) Any person aggrieved by a notice under paragraph (5) may, within 21 days after the date of the service of the notice, appeal to the Lands Tribunal and the Lands Tribunal may make or refuse to make an order confirming the representation.

Well maintained houses subject to vesting or clearance orders

93.—(1) Where a house is acquired at site value in pursuance of a vesting order or is required to be vacated in pursuance of a clearance order, any person may within three months from the making of the vesting order, or, as the case may be, the confirmation of the clearance order, represent to the Department that the house in respect of which the order has been made, or, as the case may be, confirmed, has been well maintained.

(2) If the Department is satisfied that the house has been well maintained, the Department shall inform the Executive in writing accordingly and direct that a payment be made under this Article.

(3) On receiving the information and direction referred to in paragraph (2), the Executive shall make in respect of the house a payment of such amount, if any, as is authorised by Schedule 7.

(4) A payment under this Article shall, subject to paragraph (5), be made—

(a) if the house was, at the date on which it was acquired or, as the case may be, vacated, occupied by an owner thereof, to him or, if he has since died, to his personal representatives; or

(b) if the house was not so occupied, to the person liable under any enactment, covenant or agreement to maintain and repair the house, and if more than one person is so liable, in such shares as the Executive considers equitable in the circumstances.

(5) If any person, other than those referred to in paragraph (4)(a) and

(b) satisfies the Executive that the good maintenance of the house is attributable to a material extent to work carried out by him or at his expense, the Executive may, if it appears equitable in the circumstances, make the payment in whole or in part to that person.

Partially well maintained houses

94.—(1) A house which, apart from this Article, would not fall to be treated as well maintained for the purposes of Articles 92 and 93 shall be so treated if either the exterior or the interior of the house has been well maintained.

(2) Where a house comprises more than one dwelling or is occupied partly for the purposes of a dwelling or dwellings and partly for other purposes, then—

- (a) for the purposes of the relevant provisions so far as they relate to the maintenance of the interior of a house; but
- (b) not for the purposes of those provisions so far as they relate to the maintenance of the exterior of a house;

the dwelling or each of the dwellings shall be deemed to be a house; and, in this Article, “exterior”, in relation to such a house, includes any part of the house which is not included in the interior of a dwelling.

(3) A payment under Article 92 or 93 which is made by virtue of this Article shall, instead of being the amount ascertained in accordance with Schedule 7, be one-half of the amount so ascertained.

(4) In this Article “the relevant provisions” means this Article and, so far as applicable by virtue of this Article, Articles 92 and 93.

Payments to owner-occupiers

95.—(1) Where a house has been acquired at site value in pursuance of a vesting order or has been vacated in pursuance of a demolition order, closing order or clearance order, then, if—

- (a) the relevant date is later than the 23rd April 1968; and
- (b) on the relevant date and throughout the qualifying period, the house was wholly or partly occupied as a private dwelling and the person so occupying it (or, if during that period it was so occupied by two or more persons in succession, each of those persons) was a person entitled to an estate in that house or a member of the family of a person so entitled;

the Executive shall make in respect of that estate a payment of an amount determined in accordance with paragraphs (4) to (7).

(2) Where an estate in a house acquired or vacated as mentioned in paragraph (1) was acquired by any person (in this paragraph referred to as “the first owner”) after the 23rd April 1968 and less than two years before the relevant date, and a payment under paragraph (1) in respect of that estate would have fallen to be made by the Executive had the

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qualifying period been a period beginning with the acquisition of the estate by him and ending with the relevant date, the Executive shall make to the person who was entitled to the estate at the date the house was acquired or vacated a payment of the like amount, if—

- (a) the Executive is satisfied that, before acquiring the estate the first owner had made all reasonable inquiries to ascertain whether it was likely that the order or declaration by reference to which the relevant date is defined in Article 96(1) would be made or notice of it served within two years of the acquisition and that he had no reason to believe that it was likely; and
- (b) the person entitled to the estate at the date when the house was acquired or vacated was the first owner or a member of his family.

(3) Where the Executive is satisfied that, during the whole or a part of the qualifying period, a person previously in occupation of the whole or part of the house was not in occupation thereof by reason of a posting in the course of his duties as a member of the armed forces of the Crown, of a change in the place of his employment or occupation or of his leaving the house due to any threats, menaces or unlawful force against him, any member of his family or any property belonging to him or any member of his family or by reason of his apprehending that unlawful force might be used against him, any member of his family or any such property, that person shall be deemed, for the purposes of this paragraph, to have continued in occupation during that period or part.

(4) Subject to paragraphs (5) to (7), the amount of any payment made under paragraph (1) or (2) in respect of an estate shall be an amount equal to its full compulsory purchase value less the compensation which was or would have been payable in respect of the estate in connection with the compulsory purchase of the house at site value.

(5) The amount which would otherwise be payable under paragraph (1) or (2) shall be reduced by such part, if any, of that amount as may reasonably be attributed to any part of the house occupied for any purposes other than those of a private dwelling at the date of the making of the vesting order, demolition order, closing order or clearance order.

(6) Any question arising under paragraph (5) as to the purposes for which any part of a house was occupied shall be determined by the Department, and, subject thereto, the amount of any payment under paragraph (1) or (2) in respect of an estate shall be determined (in default of agreement) as if it were compensation payable in respect of the vesting of the estate under a vesting order, and the payment shall, subject to paragraph (7), be dealt with as if it were such compensation.

(7) Any such payment in respect of an estate which, at the date when the house was acquired under a vesting order or, as the case may be, vacated, was held by virtue of an agreement to purchase by instalments shall be made to the person entitled to the estate at that date.

Supplementary provisions relating to Article 95

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96.—(1) In Article 95, “the relevant date” means—

- (a) if the house was vacated in pursuance of a demolition order or closing order, the date when the order was made;
- (b) if the house was acquired under a vesting order, the date when the order was made;
- (c) if the house was comprised in a clearance area, the date when the area was so declared;

and “the qualifying period” means the period of two years ending with the relevant date, except that where that date is earlier than 22nd April 1970, it means the period beginning with the 23rd April 1968 and ending with the relevant date.

(2) In Article 95, references to a demolition order do not include such an order in respect of a house already subject to a closing order so far as it affects any part of the house in relation to which a payment under Article 92 or 94 has fallen to be made in respect of the closing order.

(3) For the purposes of Article 95, a person who, on the death of another became entitled to any estate of his, shall be deemed to have been entitled to that estate as from the date of the death.

(4) For the purposes of Article 95(1) a house shall be deemed to have been acquired or vacated in pursuance of an order mentioned in that paragraph if—

- (a) the Executive is satisfied that the dwelling is unfit for human habitation and is not capable at reasonable expense of being rendered so fit; and
- (b) the house is vacated by arrangement with the Executive prior to the making of such an order.

Houses used for business purposes

97.—(1) Subject to paragraph (2), where a house is acquired at site value in pursuance of a vesting order or is vacated in pursuance of a clearance order or a demolition order the Executive shall, if, at the date of the making of the relevant order, the house is wholly or partly occupied for the purposes of a business and the person entitled to the receipts of the business held an estate in the house, make in respect of that estate a payment of an amount determined in accordance with paragraphs (3) and (4).

(2) A payment shall not be made under this Article in respect of any estate in a house unless the house was occupied wholly or partly for business purposes and a person entitled to the receipts of a business carried on wholly or partly therein held an estate in the house at all times during the two years preceding the date of the making of the order.

(3) Subject to paragraph (4), the amount of any payment made under this Article in respect of an estate shall be an amount equal to its compulsory purchase value less the compensation which was or would

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have been payable in respect of the estate in connection with the compulsory acquisition of the house at site value.

(4) The amount which would otherwise be payable in accordance with paragraph (3) shall be reduced by so much, if any, of that amount as may reasonably be attributed to any part of the house not occupied at the date of the making of the relevant order for the purposes of the business.

(5) Any question arising under paragraph (4) as to the purposes for which any part of a house was occupied shall be determined by the Department.

(6) In this Article, "business", in relation to the purposes for which a house was occupied, does not include the letting of accommodation in that house, whether with or without service.

Allowances to retail shopkeepers

98. Where, as a result of action taken by the Executive in relation to clearance areas or re-development areas, the population of the locality concerned is materially decreased, the Executive may pay to any person carrying on a retail shop in that locality such reasonable allowance as it considers fit towards any loss involving personal hardship which in its opinion he will thereby sustain, but, in estimating any such loss, it shall have regard to the probable future development of that locality.

Avoidance of duplication of payments

99.—(1) Any payments made under this Chapter to a person who claims, otherwise than under this Chapter, to be entitled to receive compensation to which this Article applies shall be deemed to have been received by that person in settlement, so far as those payments extend, of that compensation.

(2) Any compensation to which this Article applies which is paid to any person in respect of any matter in respect of which payments would, apart from this paragraph, fall to be paid to him under this Chapter shall be deemed to have been received by him in settlement, so far as the compensation extends, of those payments.

(3) This Article applies to any compensation, other than compensation limited under Article 91, which a person claims—

- (a) in consequence of a house having been acquired in pursuance of a vesting order or vacated in pursuance of a clearance order, demolition order or closing order; or
- (b) by reason of his having been dispossessed of an estate in a house in consequence of the exercise by the Executive of functions which involve the demolition or removal of that house or a prohibition on its use for human habitation; or
- (c) by reason of his having been displaced from a house or other building in consequence of the carrying out of any order, scheme or declaration by the Executive.

Modification of obligations arising under mortgages and other agreements PART V

100.—(1) Where—

- (a) a house is acquired at site value in pursuance of a vesting order or is vacated in pursuance of a demolition order, clearance order or closing order; and
- (b) on the date of the making of the order, the house is occupied as a private dwelling by a person having an estate in the house, and is so occupied in right of that estate, and
 - (i) that person continues to own that estate until the end of the relevant period; and
 - (ii) that estate, throughout the relevant period, has been subject to a mortgage or to an agreement to purchase by instalments;

paragraph (2) shall have effect.

(2) Either party to the mortgage or agreement may apply to the county court which may, after affording to the other party an opportunity to be heard, make an order—

- (a) if the house is acquired under a vesting order, discharging or modifying any outstanding liabilities of the person referred to in paragraph (1)(b) by virtue of any bond, covenant or other obligation with respect to the debt secured by the mortgage or secured by the agreement; or
- (b) if the house is vacated under a demolition order, closing order or clearance order, discharging or modifying the terms of the mortgage or agreement;

either unconditionally or subject to such terms and conditions, including conditions with respect to the payment of money, as the court may consider just and equitable to impose.

(3) In determining what order, if any, to make under this Article, the court shall have regard to all the circumstances, and in particular, in relation to a mortgage—

- (a) to whether the mortgagee acted reasonably in advancing the principal sum on the terms of the mortgage;
- (b) where the sum secured by the mortgage represents all or any of the purchase price payable for the estate in question, to whether the purchase price was excessive;
- (c) to the extent to which the house may have become unfit for human habitation owing to any default on the part of the mortgagor in carrying out any obligation under the terms of the mortgage with respect to the repair of the house;

or, in relation to an agreement to purchase by instalments, to how far the amount already paid by way of principal, or, where the house has been acquired under a vesting order, the aggregate of that amount and

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so much, if any, of the compensation as falls to be paid to the vendor, represents an adequate price for the purchase.

(4) For the purposes of paragraph (3)(a), a mortgagee shall be deemed to have acted unreasonably if, at the time when the mortgage was made, he knew or ought to have known that in all the circumstances the terms of the mortgage did not afford sufficient security for the principal sum advanced.

(5) In this Article—

“estate”, in relation to a house, does not include the estate of a tenant for a year or any less period or of a tenant whose sole right to possession is under the Rent (Northern Ireland) Order 1978;

“the relevant period” means the period from the date of the making of the vesting or other order to—

(a) if it is a vesting order, the date upon which that order comes into operation;

(b) if it is not such an order, the date of vacation of the house in pursuance of the order;

or, if the owner of any such estate as is referred to in paragraph (1)(b) dies before the date specified in sub-paragraph (a) or (b) of this definition, to the date of death.

(6) In this Article any reference to a mortgagor or mortgagee shall, in relation to a charge, be construed as a reference to a person entitled to the estate charged or to a person entitled to the benefit of the charge, respectively.

(7) This Article shall apply in relation to estates in houses which were acquired or vacated before, as well as after, the coming into operation of this Order.

Interest

101.—(1) Where—

(a) a house is acquired in pursuance of a vesting order or is vacated in pursuance of a clearance order, demolition order or closing order; and

(b) any person is, in respect of an estate in that house, entitled to a payment under this Chapter;

the Executive shall pay interest at the prescribed rate to that person in accordance with paragraph (2).

(2) Interest under paragraph (1) shall be paid—

(a) where the house is acquired in pursuance of a vesting order, from the date on which the order comes into operation;

(b) where the house is vacated in pursuance of any other order, from the later of the following dates—

(i) the date on which the order comes into operation;

(ii) the date on which the house is vacated.

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HOUSES IN MULTIPLE OCCUPATION

Overcrowding in houses in multiple occupation

102.—(1) If it appears to the Executive, in the case of a house which is occupied by persons who do not form a single household, that excessive numbers of persons are being accommodated on the premises having regard to the rooms available, the Executive may serve on the person appearing to it to be the occupier of the premises or on the person appearing to it to have the control or management thereof, or on both, a notice—

- (a) stating, in relation to any room on the premises, what is, in the Executive's opinion, the maximum number of persons by whom it is suitable to be occupied as sleeping accommodation at any one time or, as the case may be, that it is in its opinion unsuitable to be occupied as aforesaid; and
- (b) informing him of the effect of paragraph (4).

(2) For the purposes of paragraph (1)(a), a notice may, in relation to any room, prescribe special maxima applicable in any case where some or all of the persons occupying the room are under such age as may be specified in the notice.

(3) Any person aggrieved by a notice under this Article may, within 21 days from the date of the service of the notice, appeal to a court of summary jurisdiction, and on any such appeal the court may make such order, either confirming, quashing or varying the notice, as it thinks fit.

(4) Any person who has been served with a notice under this Article shall be guilty of an offence if, after the notice has become operative—

- (a) he causes or knowingly permits any room to which the notice relates to be occupied as sleeping accommodation otherwise than in accordance with the notice; or
- (b) he causes or knowingly permits to be accommodated on the premises such number of persons that it is not possible, without contravening sub-paragraph (a) or occupying as sleeping accommodation some part of the premises for which a maximum is not specified under paragraph (1)(a), to avoid persons of opposite sexes and over the age of 12 years (other than persons living together as husband and wife) occupying sleeping accommodation in the same room.

(5) A person committing an offence under this Article shall be liable on summary conviction to a fine not exceeding £500.

(6) Where the Executive serves a notice under this Article in respect of any premises,—

- (a) it may at any time withdraw the notice, without prejudice to anything done in pursuance thereof or to the service of another notice, or

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(b) if there is any material change of circumstances, it may substitute for the notice a further notice under this Article; and, where a notice is withdrawn, paragraph (4) shall cease to apply in relation to the premises, without prejudice to its further application if a subsequent notice is served in respect of the same premises.

Date of operation of notices

103.—(1) A notice served under Article 102 shall, if no appeal is brought under paragraph (3) of that Article, become operative on the expiration of 21 days from the date of service of the notice and shall be final and conclusive as to any matters which could have been raised on such an appeal.

(2) A notice served under Article 102 against which an appeal is brought under paragraph (3) of that Article shall, if and so far as it is confirmed by the court, become operative on such date as may be specified by the court or, where no date is so specified, as from the final determination of the appeal.

(3) For the purposes of this Article, the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as a decision confirming the notice against which the appeal is brought.

Power to apply management code to houses in multiple occupation

104.—(1) If it appears to the Executive that—

- (a) a house which is occupied by persons who do not form a single household is in an unsatisfactory state in consequence of failure to maintain proper standards of management, and
- (b) it is necessary that regulations made under Article 105 should apply to that house.

the Executive may direct that those regulations shall so apply, and so long as the direction is in force the regulations shall apply in relation to that house accordingly.

(2) The Executive shall, within 7 days from making the direction—

- (a) serve a copy of the direction on every person appearing to it to be an owner of the house; and
- (b) exhibit a copy of the direction in some position in the house where it is accessible to those living in the house;

and a direction under this Article shall come into force on the expiration of 21 days from the date of service or exhibition of a copy of the direction, whichever is the later.

(3) A person on whom a copy of the direction is served under paragraph (2) may, within 21 days from the service or such longer period as the Executive may in writing allow, appeal to a court of summary jurisdiction on the ground that the making of the direction was unnecessary.

(4) On an appeal under paragraph (3), the court shall take into

account the state of the house at the time of the making of the direction as well as at the time the appeal was instituted and shall disregard any improvement in the state of the house between those times unless the court is satisfied that effective steps have been taken to ensure that the house will in future be kept in a satisfactory state; and, if the court allows the appeal, the court shall revoke the direction, but without prejudice to its operation prior to the revocation or to the making of a further direction.

(5) The Executive may on the application of a person having an estate in the house revoke a direction under this Article, and if the Executive—

- (a) refuses an application under this paragraph, or
- (b) does not within 35 days from the making of the application, or within such further period as the applicant may in writing allow, notify the applicant of its decision on the application,

the applicant may appeal to a court of summary jurisdiction and the court may, if it is of opinion that there has been a substantial change in the circumstances since the making of the direction and that it is in other respects just to do so, revoke the direction.

Regulations prescribing management code

105.—(1) With a view to providing a code for the management of houses which may be applied under Article 104, the Department may by regulations make provision for the purpose of ensuring that a house which is occupied by persons who do not form a single household is occupied in accordance with proper standards of management.

(2) Without prejudice to the generality of paragraph (1), regulations under this Article may, in particular, require the repair, maintenance, cleansing and good order—

- (a) of all means of water supply and drainage in the house;
- (b) of kitchens, bathrooms and water closets in common use;
- (c) of sinks and wash-basins in common use;
- (d) of common staircases, corridors and passage ways; and
- (e) of outbuildings, yards and gardens in common use;

and the making of satisfactory arrangements for the disposal of refuse and litter from the house.

(3) Regulations under this Article may—

- (a) provide for keeping a register of the names and addresses of those who are managers of houses;
- (b) impose duties on persons who have an estate in a house or any part of a house, to which the regulations apply as to the giving of information to the Executive, and in particular may make it the duty of any person who acquires or ceases to hold an estate in the house to notify the Executive;
- (c) prescribe the persons who are, for the purposes of this Part and

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of regulations made thereunder, to be treated as the managers of houses;

- (d) impose duties on persons who live in the house for the purpose of ensuring that the person managing the house can effectively carry out the duties imposed on him by the regulations;
- (e) authorise the Executive to obtain information as to the number of individuals or households accommodated in the house;
- (f) make it the duty of the person managing the house to cause a copy of the direction, and of the regulations, to be displayed in a suitable position in the house; and
- (g) contain such other incidental and supplementary provisions as appear to the Department to be expedient.

(4) Any person who knowingly contravenes or without reasonable excuse fails to comply with any regulations under this Article as applied under this Part in relation to any house shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Power to require work to make good neglect of proper standards of management

106.—(1) If, in the opinion of the Executive, the condition of a house to which regulations under Article 105 apply is defective in consequence of failure to comply with the requirements imposed by the regulations, or, in respect of a period falling wholly or partly before the regulations applied to the house, neglect to comply with standards corresponding to the requirements imposed by the regulations, the Executive may serve on the person appearing to it to be the manager of the house a notice specifying the works which, in the opinion of the Executive, are required to make good the neglect, and requiring the person on whom the notice is served to execute those works.

(2) If it is not practicable after reasonable inquiry to ascertain the name or address of the person managing the house, the notice under this Article may be served by addressing it to him by the description of "manager of the house" (naming the house to which it relates) and by delivering it to some person on the premises.

(3) A notice under this Article shall require the execution of the works within such period, being not less than 21 days from the service of the notice, as may be specified in the notice, but that period may be extended by written permission of the Executive.

(4) Where the Executive serves a notice on any person under this Article, it shall inform any other person who appears to it to be an owner of the house of the fact that such a notice has been served.

(5) A person on whom a notice is served under this Article may, within 21 days from the service of the notice or within such longer period as the Executive may in writing allow, appeal to a court of summary jurisdiction on any of the following grounds which are appropriate in the circumstances—

- (a) that the condition of the house did not justify the Executive in requiring the execution of the works specified in the notice;
- (b) that there has been some informality, defect or error in, or in connection with, the notice;
- (c) that the Executive has refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
- (e) that some person other than the appellant is wholly or in part responsible for the state of affairs calling for the execution of the works, or will, as the holder of an estate in the premises, derive a benefit from the execution of the works, and that that person ought to pay the whole or any part of the expenses of executing the works.

(6) Where an appeal under this Article is based solely on the ground of some informality, defect or error in, or in connection with, the notice, the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(7) Where the grounds on which an appeal is brought under this Article include the ground specified in paragraph (5)(e), the appellant shall serve a copy of his notice of appeal on each other person referred to, and, on the hearing of the appeal any such other person may appear and be heard and, the court may make such order as it considers just with respect to the payment to be made by any such other person to the appellant or, where the work is executed by the Executive, to the Executive.

Power to require works of other descriptions

107.—(1) If the condition of a house which is occupied by persons who do not form a single household is, in the opinion of the Executive, so far defective with respect to any of the following matters—

- (a) natural or artificial lighting;
- (b) ventilation;
- (c) water supply;
- (d) personal washing facilities;
- (e) drainage and sanitary conveniences;
- (f) facilities for the storage, preparation and cooking of food, and for the disposal of waste water;
- (g) installations for space heating or for the use of space heating appliances;

having regard to the number of individuals or households, or both, accommodated for the time being on the premises, as not to be reasonably suitable for occupation by those individuals or households, the Executive may serve either—

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- (i) on any person appearing to it to be an owner of the house; or
- (ii) on any person to whom the house is let at a rack rent, or on any person who, as the agent or trustee of a person to whom the house is let at a rack rent, receives rents or other payments from tenants of parts of the house or lodgers in the house;

a notice specifying the works which, in the opinion of the Executive, are required for rendering the premises reasonably suitable for such occupation as aforesaid, and requiring the person on whom the notice is served to execute those works.

(2) If the Executive is satisfied that, after the service of the notice, the number of individuals or households living on the premises has been reduced to a level which will make the work specified in the notice unnecessary, and that, either in consequence of its exercise of the powers conferred by this Part to limit the number of persons living on the premises or otherwise, that number will be maintained at or below that level, it may notify in writing the person on whom the notice was served of the withdrawal of the notice, but the withdrawal of the notice shall be without prejudice to the issue of a further notice.

(3) A notice under this Article shall require the execution of the works within such period, being not less than 21 days from the service of the notice, as may be specified in the notice, but that period may be extended by written permission of the Executive.

(4) Where the Executive serves a notice on any person under this Article, it shall inform every other person on whom a notice under paragraph (1) may be served of the fact that such a notice has been served.

Further provisions relating to overcrowded houses

108.—(1) If the condition of a house which, or a part of which, is occupied by persons who do not form a single household is, in the opinion of the Executive, defective in one or more of the ways described in paragraph (1) of Article 107, having regard to the number of individuals or households, or both, accommodated for the time being on the premises, the notice which the Executive may serve under that paragraph may be a notice specifying the works which, in the opinion of the Executive, are required for rendering the premises reasonably suitable for occupation by a number of individuals or households smaller than the number accommodated on the premises.

(2) A notice served under Article 107 in pursuance of paragraph (1) shall specify the number of individuals or households, or both, which, in the opinion of the Executive, the premises could reasonably accommodate if the works specified in the notice were carried out.

(3) Where the Executive has, in pursuance of paragraphs (1) and (2), served a notice under Article 107 specifying the number of individuals or households, or both, which, in the opinion of the Executive, the premises could reasonably accommodate if the works specified in the notice were carried out, the Executive may adopt that number of

individuals (or a number of individuals determined by reference to that number of households) in fixing a limit under Article 112 as respects the house.

Provision of means of escape from fire

109.—(1) If it appears to the Executive that a house which is occupied by persons who do not form a single household is not provided with such means of escape from fire as the Executive considers necessary, the Executive may, subject to paragraph (2), serve on any person on whom a notice may be served under Article 107 a notice specifying the works which, in the opinion of the Executive, are required to provide such means of escape, and requiring the person on whom the notice is served to execute those works.

(2) Article 107(3) and (4) shall apply to a notice under this Article as it applies to a notice under that Article.

Right of appeal against notice requiring execution of works

110.—(1) A person on whom a notice is served under Article 107 or 109 may, within 21 days from the service of the notice or within such longer period as the Executive may in writing allow, appeal to a court of summary jurisdiction on any of the following grounds which are appropriate in the circumstances—

- (a) that the condition of the house did not justify the Executive, having regard to the considerations in Article 107(1), in requiring the execution of the works specified in the notice, or, in the case of a notice under Article 109, that the notice is not justified by the terms of that Article;
- (b) that there has been some informality, defect or error in, or in connection with, the notice;
- (c) that the Executive has refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
- (e) that some person other than the appellant is wholly or in part responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate in the premises derive a benefit from the execution of the works, and that that person ought to pay the whole or any part of the expenses of executing the works;
- (f) where the appeal is against a notice served under Article 107 in pursuance of Article 108(1), that the number of persons or households, or both, specified in the notice pursuant to Article 108(2) is unreasonably low.

(2) Where an appeal under this Article is based solely on the ground of some informality, defect or error in, or in connection with, the notice,

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the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(3) Where the grounds upon which an appeal under this Article is brought include the ground specified in paragraph (1)(e), the court, if satisfied that any other person referred to in the notice of appeal has had proper notice of the appeal, may, on the hearing of the appeal, make such order as it thinks fit with respect to the payment to be made by that other person to the appellant or, where the work is done by the Executive, to the Executive.

(4) For the purposes of paragraph (3), any person referred to in a notice of appeal may appear and be heard on the hearing of the appeal.

(5) If, on an appeal under this Article against a notice served under Article 107,—

(a) the court is satisfied that the number of persons living in the house has been reduced, and

(b) that adequate steps (whether by the exercise by the Executive of the powers conferred by the following provisions of this Part to limit the number of persons living in the house or otherwise) have been taken to prevent that number being again increased,

the court may, if it thinks fit, revoke the notice or vary the list of works specified in the notice.

Carrying out of works by the Executive

111.—(1) If a notice under Article 106, 107 or 109 is not complied with, then—

(a) after the expiration of the time within which the works are required to be executed, or

(b) if an appeal has been made against the notice and upon that appeal the notice has been confirmed with or without variation, after the expiration of 21 days from the final determination of the appeal, or such longer period as the court in determining the appeal may fix;

the Executive may do the work required to be done by the notice (with any variation made by the court).

(2) Notwithstanding anything in paragraph (1), if, before the expiration of the time mentioned in that paragraph, the person on whom the notice was served notifies the Executive in writing that he does not intend to do the work in question, the Executive may, if it considers fit, do the work forthwith.

(3) Any expenses reasonably incurred by the Executive under this Article, together with interest at the prescribed rate from the date when a demand for the expenses is served until payment, may, except so far as they are by any direction of the court on appeal recoverable under an order of the court, be recovered by it summarily as a civil debt from the person on whom the notice was served or, if he was served with the

notice in his capacity only as an agent or trustee for some other person, then either from him or from that other person, or as to part from him and as to the remainder from that other person; but if the person on whom the notice is served proves that he—

- (a) was served with the notice in his capacity only as an agent or trustee for some other person; and
- (b) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the Executive;

his liability shall be limited to the total amount of the money which he has, or has had, in his hands as aforesaid.

(4) Any expenses recoverable by the Executive under paragraph (3), together with interest accrued due thereon, shall, until recovered, be a charge on the estate in the premises of the person on whom the notice was served; but, if that person was only properly served with the notice as being an agent or trustee for some other person, those expenses shall be a charge on the estate (if any) in the premises of that other person, and not on that of the first-mentioned person.

(5) The charge under paragraph (4) may be recovered by the same means and in the like manner in all respects as if it were a mortgage by deed created by the owner of the estate in favour of the Executive, and, for the recovery thereof, the Executive may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgages by deed.

1881 c.41

(6) If the Executive applies to a court of summary jurisdiction and satisfies the court—

- (a) that any expenses reasonably incurred by it under this Article (with the interest accrued due thereon) have not been, and are unlikely to be, recovered; and
- (b) that some person is profiting by the execution of the works in respect of which the expenses were incurred to obtain rents or other payments which would not have been obtainable if the number of persons living in the house was limited to that appropriate for the house in its state before the works were executed;

the court may, if satisfied that that person has had proper notice of the application, order him to make such payment or payments to the Executive as appear to the court to be just.

(7) In all summary proceedings by the Executive for the recovery of expenses under this Article, the time within which the proceedings may be taken shall be reckoned from the date of the service of the demand.

(8) In proceedings by the Executive for the recovery of any expenses under paragraph (3), it shall not be open to the defendant to raise any question which he could have raised on an appeal under this Part against the notice requiring the execution of the works.

PART VI

Directions to prevent or reduce overcrowding in houses in multiple occupation

112.—(1) The Executive may, for the purpose of preventing the occurrence of, or remedying, a state of affairs calling for the service of a notice or a further notice under Article 107, fix as a limit for the house what is, in its opinion, the highest number of individuals or households, or both, who or which should, having regard to the considerations set out in paragraph (1) of that Article, occupy the house in its existing condition, and give a direction applying that limit to the house.

(2) A direction under paragraph (1) shall have effect so as to make it the duty of the occupier of the house not to permit the number of individuals or households occupying the house to increase to a number above the limit specified in the direction, and, if it is above that number, not to permit it to increase further.

(3) References in paragraphs (1) and (2) to a house include references to part of a house, and the Executive shall have regard to the desirability of applying separate limits where different parts of a house are, or are likely to be, occupied by different persons.

(4) The reference in paragraph (2) to the occupier includes a reference to any person who is entitled or authorised to permit individuals or households to take up residence in the house, or any part of it.

(5) Not less than 7 days before giving a direction under this Article, the Executive shall—

- (a) serve on every person appearing to it to be an owner of the house notice of its intention to give the direction; and
- (b) exhibit such a notice in some position in the house where it is accessible to those living in the house;

and shall afford to any person on whom a notice is so served an opportunity of making representations regarding its proposal to give the direction.

(6) The Executive shall, within 7 days from the giving of the direction—

- (a) serve a copy of the direction on every person appearing to it to be an owner of the house; and
- (b) exhibit a copy of the direction in some position in the house where it is accessible to those living in the house.

(7) The power conferred by paragraph (1) may be exercised as regards any premises notwithstanding the existence of any previous direction under that paragraph laying down a higher maximum.

(8) The Executive may at any time, having regard to the works which have been executed in the house, or any other change of circumstances, and on the application of any person having an estate in the house, revoke any direction given under paragraph (1), or vary it so as to allow more individuals to be accommodated in the house.

(9) If the Executive—

- (a) refuses an application under paragraph (8); or
- (b) does not within 35 days from the making of such an application, or within such further period as the applicant may in writing allow, notify the applicant of its decision on the application;

the applicant may appeal to a court of summary jurisdiction, and, on the appeal, the court may revoke the direction or vary it in any manner in which it might have been varied by the Executive.

(10) The Executive may serve on the person appearing to it to be the occupier of a house, or part of a house, in respect of which a direction under this Article is in force a notice requiring him to furnish it, within 7 days, with a statement in writing giving all or any of the following particulars—

- (a) the number of individuals who are, on a date specified in the notice, living in the house or, as the case may be, the part of the house;
- (b) the number of families or households to which those individuals belong;
- (c) the names of those individuals and of the heads of each of those families or households;
- (d) the rooms used by those individuals and families or households respectively.

(11) Any person on whom a notice is served under paragraph (10) who fails to comply with it or furnishes a statement which to his knowledge is false in any material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(12) Any person who knowingly fails to comply with a direction given under paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(13) The powers conferred by this Article shall be exercisable whether or not a notice has been given under Article 107 and shall be without prejudice to the powers conferred by Article 102.

Supplemental provisions

113.—(1) If, on an application made by a person required by a notice under this Part to execute any works, it appears to a court of summary jurisdiction that any other person having an estate in the premises has unreasonably refused to give any consent required to enable the works to be executed, the court may give the necessary consent in place of that other person.

(2) Article 13 (powers of entry) shall apply to entry for the purposes of exercising any functions conferred on the Executive by or under this Part, and, without prejudice to the generality of the foregoing, shall apply in particular to entry for the purposes of—

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- (a) ascertaining whether any function conferred on the Executive by or under this Part should be exercised;
- (b) ascertaining whether there has been any contravention of any notice, regulation or direction given, made or applied under this Part;

but so much of that Article as requires notice to be given of the intended entry shall not apply to entry for the purposes mentioned in subparagraph (b).

PART VII

HOUSING ASSOCIATIONS

Interpretation

114. In this Part—

- 1969 c.24 “the Act of 1969” means the Industrial and Provident Societies Act (Northern Ireland) 1969;
- 1964 c.33 “charity” has the same meaning as in the Charities Act (Northern Ireland) 1964;
- “committee” has the same meaning as in section 101(1) of the Act of 1969;
- “housing association” means—
 - (a) a public utility society, being a society registered under the Act of 1969, the rules whereof prohibit the issue of any share or loan capital with interest or dividend exceeding the rate for the time being prescribed by the Department of Finance for the purposes of this paragraph;
 - (b) a housing trust, being a corporation or body of persons which, by the terms of its constituent instrument, is required to devote the whole of its funds, including any surplus which may arise from its operations, to the provision of housing accommodation, and to other purposes incidental thereto; and
 - (c) an association incorporated as a company under the Companies Acts (Northern Ireland) 1960 and 1978 (or under any earlier statutory provision providing for the registration of companies) having among its objects the provision of housing accommodation and which is prohibited from raising or issuing any loan capital at a rate of interest exceeding the rate for the time being prescribed by the Department of Finance for the purposes of this paragraph and from paying any dividend to its members;
- 1960 c.22
1978 NI 12 “registrar” means the Registrar of Friendly Societies for Northern Ireland;
- “registered” means registered in the register of housing associations under Article 124;
- “residential accommodation” means—
 - (a) houses which are or are to be let or available for letting, or

which have been or are to be otherwise disposed of in such manner as the Department may approve; or

- (b) a building or part of a building used or for use as a hostel or part of a hostel,

and for this purpose the grant of a licence to occupy shall be treated as a letting;

“self-build society” means a housing association whose object is to provide, for sale to, or occupation by, its members, houses built or improved principally with the use of its members’ own labour; and

“unregistered self-build society” means a self-build society which is not a registered housing association.

CHAPTER I

FUNCTIONS OF HOUSING ASSOCIATIONS

Functions of the Department

115.—(1) Without prejudice to any specific function conferred on the Department by or under this Part or any other statutory provision, the Department may—

- (a) promote and assist the development of registered housing associations and of unregistered self-build societies;
- (b) facilitate the proper exercise and performance of the functions, and publicise the aims and principles, of registered housing associations and unregistered self-build societies;
- (c) establish and maintain a register of housing associations, exercise supervision and control over registered housing associations, and consider applications for and make payments of grants to registered housing associations.

(2) In the exercise of its functions under paragraph (1)(a) the Department may, with the approval of the Department of Finance, make such contributions as it may determine towards the administrative and other expenses of registered housing associations, unregistered self-build societies and such bodies as appear to it to be representative of housing associations.

(3) For the purposes of paragraph (2) the term “registered housing association” shall include an unregistered housing association which at the date of payment of the contribution has made application to the Department for registration under Article 124 and the application has not yet been disposed of by the Department.

Power of housing trusts to hold land

116. For the purpose of constructing, improving or repairing, or facilitating or encouraging the construction, improvement or repair of, housing accommodation, a housing trust, within the meaning of subparagraph (b) of the definition of “housing association” which is set out in Article 114,—

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- (a) may acquire and dispose of any estate in land; and
- (b) if it is not already a body corporate shall, for the purpose of holding any estate in land acquired under this Article, and of suing and being sued in respect thereof, be deemed to be a body corporate with perpetual succession, and consequently for the purpose of acquiring, holding or disposing of such an estate shall have a common seal.

Borrowing by housing associations

117.—(1) The Department may, on such terms and subject to such conditions as it thinks fit, make loans to—

- (a) registered housing associations, and
- (b) unregistered self-build societies,

for the purpose of enabling those bodies to meet the whole or any part of any expenditure incurred, or to be incurred, by them in carrying out their objects.

(2) Where the Department makes a loan to a registered housing association under paragraph (1), so long as any part of the principal of, or any interest on, the loan remains outstanding, the loan shall be a charge on all the revenues of that association and, subject to any statutory provision to the contrary, the charge shall rank equally with other charges on those revenues.

(3) The Department may guarantee, in such manner and on such conditions as it may think fit, the repayment of the principal of, and the payment of interest on, any sums which a registered housing association or an unregistered self-build society borrows from any person.

(4) Any sum required by the Department for fulfilling a guarantee under paragraph (3) shall be charged on and issued out of the Consolidated Fund, and for the purpose of providing such issues the Department of Finance may borrow money.

Recovery of possession of premises let by a housing association

118. On the termination of the tenancy of any premises let by a housing association, possession of the premises may (without prejudice to any other method of recovery) be recovered by the housing association in a summary manner under Part VII of the Magistrates' Courts Act (Northern Ireland) 1964 relating to ejectment proceedings, whatever may be the rent or term of the tenancy.

1964 c.21

Rents

119. The rent to be charged—

- (a) for any housing accommodation provided by a registered housing association; and
- (b) for housing accommodation provided by an unregistered housing association and in respect of which annual contributions are

paid or payable under section 1 of the Housing Act (Northern Ireland) 1945;

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1945 c.2

shall be such amount as may be determined by the Department.

Rent rebates

120.—(1) The Department may make a scheme, to be administered by the Department of Finance, for granting to persons who occupy as their homes houses let to them by registered housing associations, rebates from rent calculated in accordance with the provisions of the scheme by reference to their needs and resources.

(2) No rebate from the rent of a house shall be granted by virtue of this Article to any person—

- (a) who occupies a house in pursuance of a contract of service the terms of which require that he shall be provided with a house at a rent specified in the contract or without payment of rent; or
- (b) who occupies a house provided by an association, the rules of which restrict membership of the association to persons entitled, or prospectively entitled (whether as tenants or otherwise), to occupy a house provided or managed by the association.

Persons eligible for housing accommodation

121. Except with the consent of the Department, a housing association shall not—

- (a) if it is a registered housing association, accept as a tenant of any housing accommodation provided by it; or
- (b) if it is not a registered housing association,
 - (i) accept as a tenant of housing accommodation provided by it under section 1 of the Housing Act (Northern Ireland) 1945 as applied by section 12 of the Housing (Miscellaneous Provisions) Act (Northern Ireland) 1946, or
 - (ii) accept as an occupier of accommodation in a hostel provided by it in respect of which any contribution has been made to it under section 15 of the Housing Act (Northern Ireland) 1963,

1946 c.4

1963 c.26

any person whom the Executive would be precluded by a scheme made under Article 22 from accepting as a tenant of housing accommodation provided by it.

Acquisition of land

122.—(1) The Department may, for the purpose of selling or leasing land to a registered housing association or to an unregistered self-build society—

- (a) acquire any land by agreement or compulsorily;
- (b) dispose of any land so acquired.

(2) Where the Department in exercise of the power conferred on it by

PART VII paragraph (1) desires to acquire any land compulsorily, the Department may make an order (in this Article referred to as a "vesting order") vesting the land in the Department.

1972 c.9 (3) Section 97(3) of, and Schedule 6 to, the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications specified in Schedule 8, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as they apply to the acquisition of land by means of a vesting order made under that Act.

1933 c.6 (4) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 shall not affect the disposal of any land acquired or taken on lease under this Article.

Disposal of land

123.—(1) Subject to this Article, and notwithstanding anything contained in section 30 of the Act of 1969,—

- (a) a registered housing association may not dispose of or mortgage any land, and
- (b) an unregistered housing association may not dispose of or mortgage any grant-aided land as defined in Schedule 9,

except with the consent of the Department.

(2) Paragraph (1) shall not apply to the disposal of any land by the granting of a lease for a term ending within the period of 7 years and 3 months beginning on the date of the grant unless—

- (a) there is conferred on the lessee (whether by the lease or otherwise) an option for renewal for a term which, together with the original term, would expire outside that period; or
- (b) the lease is granted wholly or partly in a consideration of a fine.

(3) Without prejudice to the generality of the expression "dispose" in paragraph (1), in paragraph (2) the expression "lease" includes an agreement for a lease and a licence to occupy and the expression "grant" and "term" shall be construed accordingly.

CHAPTER II

REGISTRATION OF HOUSING ASSOCIATIONS

The register of housing associations

124.—(1) The Department shall maintain a register of housing associations in which may be registered any housing association which is a society registered under the Act of 1969 and fulfils the conditions in paragraph (2).

(2) The conditions referred to in paragraph (1) are that the housing association does not trade for profit and is established for the purpose of, or has among its objects or powers those of, providing, constructing, improving or managing residential accommodation for the benefit of

persons in need thereof and that, if the association has any additional purpose or objects, it has none which is not mentioned in paragraph (3).

(3) The additional purposes or objects referred to in paragraph (2) are those—

- (a) of providing land or buildings for purposes connected with the requirements of the persons occupying the residential accommodation provided or managed by the association;
- (b) of providing amenities or services for the benefit of those persons, either exclusively or together with other persons;
- (c) of encouraging and giving advice on the formation of other housing associations which would be eligible for registration by the Department; and
- (d) of providing services for, and giving advice on the running of, registered housing associations.

(4) The Department shall, after consultation with such bodies as appear to it to be representative of housing associations, establish criteria which should be satisfied by a housing association seeking registration, and may vary those criteria in such manner as it may determine.

(5) In deciding whether to register a housing association, the Department shall have regard to the question whether the association satisfies the criteria established in accordance with paragraph (4).

(6) For all purposes other than rectification of the register, a society shall be conclusively presumed to be a housing association falling within paragraph (1) at any time when it is or was on the register of housing associations.

(7) The register of housing associations shall be open to inspection at such place and at such times as the Department considers appropriate.

Removal of societies from the register

125.—(1) Where a society has been registered in the register of housing associations, that society shall not be removed from the register except by the Department in accordance with the provisions of this Article.

(2) If it appears to the Department that any society which is registered—

- (a) is no longer a housing association falling within Article 124(1),
or
- (b) has ceased to exist or does not operate,

the Department shall, on giving not less than 14 days' notice to that society, remove it from the register; and in a case where sub-paragraph (b) applies, any such notice shall be deemed to be given to a society if it is served at the address last known to the Department to be the principal place of business of that society.

(3) A society which is aggrieved by a decision of the Department to

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remove it from the register of housing associations may appeal against the decision to the High Court.

(4) If an appeal is brought under paragraph (3) and is not withdrawn the Department shall not remove the society concerned from the register of housing associations until the appeal has been finally determined.

(5) No sum shall be paid in respect of a grant under Article 137, 139 or 140 to a society which has been removed under this Article from the register of housing associations.

(6) Where, at the time of its removal under this Article from the register of housing associations, a society owns land, Article 123 shall continue to apply to that land after the removal as if the society concerned continued to be a registered housing association.

Notifications to and by Registrar of Friendly Societies for Northern Ireland

126.—(1) As soon as may be after registering a housing association or removing a society from the register the Department shall give notice of the registration or removal to the Registrar of Friendly Societies for Northern Ireland (in this Part referred to as “the registrar”).

(2) Where notice is given under paragraph (1), the registrar shall record the registration or removal from the register by the Department.

(3) As soon as may be after an appeal is brought under Article 125(3), the Department shall give notice of the appeal to the registrar.

(4) As soon as may be after cancelling or suspending the registration of a society which is a registered housing association, the registrar shall give notice of the cancellation or suspension to the Department.

(5) As soon as may be after an appeal is brought under section 17(1) of the Act of 1969, the registrar shall give notice of the appeal to the Department.

Grants under the Finance Act (Northern Ireland) 1966

127. The power of the Department to make grants under section 15 of the Finance Act (Northern Ireland) 1966 (grants to housing associations for affording relief from tax) shall not be exercisable on a claim made by a housing association under that section in respect of a period beginning on or after 6th April 1977 unless, throughout that period, the housing association is a registered housing association.

Inquiries into affairs of registered housing associations

128.—(1) The Department may appoint a person to conduct an inquiry into the affairs of any registered housing association.

(2) For the purposes of an inquiry under paragraph (1), the person appointed to conduct the inquiry may, by notice in writing served on the association concerned or on any person who is or has been an officer or member of the association, require the association or that person to produce to the person appointed to conduct the inquiry such books,

accounts and other documents relating to the association's business, and to furnish to him such other information relating to that business, as he considers necessary for the purposes of the inquiry.

(3) Any association or other person who without reasonable excuse fails to comply with the requirements of a notice under paragraph (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(4) For the purposes of an inquiry under paragraph (1) the Department may require the accounts and balance sheet of the association concerned, or such of them as the Department may specify, to be audited by an auditor appointed by the Department being a person who,—

- (a) under section 41(1) of the Act of 1969, is a qualified auditor for the purposes of that Act, or
- (b) under section 41(2) of the Act of 1969, is a qualified auditor in relation to the particular association whose accounts are required to be audited under this paragraph.

(5) Any person appointed to conduct an inquiry under paragraph (1) and any person appointed to make an audit under paragraph (4) shall, on completion of the inquiry, or, as the case may be, the audit, make a report to the Department on such matters and in such form as the Department may specify.

(6) The expenses of an audit under paragraph (4), including the remuneration of the auditor, shall be paid by the Department.

(7) An audit under paragraph (4) shall be additional to, and shall not affect, any audit made or to be made under any other statutory provision.

Department's power to act for protection of registered housing associations

129.—(1) Where the Department is satisfied as the result of an inquiry or an audit under Article 128 that there has been any misconduct or mismanagement in the administration of a registered housing association, the Department may do all or any of the following, namely,—

- (a) by order remove any member of the committee of the association, or any officer, agent or servant of the association, who has been responsible for or privy to the misconduct or mismanagement or has by his conduct contributed to it or facilitated it;
- (b) order any bank or other person who holds money or securities on behalf of the association not to part with the money or securities without the approval of the Department;
- (c) by order restrict the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the association without the approval of the Department.

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1961 c.15

(2) The Department may also by order remove a member of the committee of a registered housing association where that member—

- (a) is a bankrupt, or is incapable of acting by reason of mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961;
- (b) has not acted; or
- (c) cannot be found or does not act and his absence or failure to act impedes the committee's proper management of the association's affairs.

(3) The Department may by order appoint a person to be a member of the committee of a registered housing association (whether or not he is a member of the association and, if he is not, notwithstanding that the rules of the association restrict membership of the committee to members of the association)—

- (a) in place of a member of the committee removed by it under this Article or otherwise;
- (b) where there are no members of the committee; or
- (c) where the Department is of opinion that it is necessary for the proper management of the association's affairs to have an additional member of its committee.

(4) A person appointed to be a member of the committee of a registered housing association under paragraph (3) shall hold office for such period and on such terms as the Department may specify and, on the expiry of any such period, the Department may renew the appointment for such period as it may specify; but nothing in this paragraph shall prevent any such person from retiring from the appointment in accordance with the rules of the association.

(5) Any member of the committee of a registered housing association or any officer, agent or servant of the association who is ordered by the Department to be removed under paragraph (1)(a) or (2) may appeal against the order to the High Court.

(6) Before making an order under paragraph (1)(a) or (2) the Department shall give not less than 14 days' notice of its intention to do so—

- (a) to the person whom it intends to remove, and
- (b) to the registered housing association concerned.

(7) Any person who contravenes an order under paragraph (1)(b) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500, or to imprisonment for a term not exceeding 3 months, or to both; but no proceedings for an offence punishable under this paragraph shall be instituted except by or with the consent of the Department.

(8) As soon as may be after making an order under this Article the Department shall send a copy of the order to the registrar.

Transfer of land of registered housing associations

130.—(1) Where the Department is satisfied, as the result of an inquiry or an audit under Article 128, that—

- (a) there has been in the administration of a registered housing association any misconduct or mismanagement, or
- (b) the management of the land belonging to any such association would be improved if the land were to be transferred in accordance with this Article,

the Department may direct the association to transfer the land belonging to it to another body in accordance with paragraph (2).

(2) A direction under paragraph (1) may require the association concerned to transfer the land belonging to it,—

- (a) in a case where that association is a charity, to another registered housing association which is a charity and the objects of which appear to the Department to be, as nearly as practicable, akin to those of the association directed to make the transfer; and
- (b) in any other case, to the Department or to another registered housing association.

(3) A transfer in pursuance of a direction under paragraph (1) shall be made on the terms that the Department or, as the case may be, the association to which the land is transferred will pay or undertake to pay to the association making the transfer such sum, if any, as will be necessary to defray all its proper debts and liabilities (including any debts and liabilities secured on the land to be transferred) after taking into account any money or other assets belonging to the association.

(4) If it appears to the Department to be likely that, as a result of a transfer in pursuance of a direction under paragraph (1), the association making the transfer will be dissolved as mentioned in paragraph (a) or paragraph (b) of section 64 of the Act of 1969, the Department shall secure that the costs of such a dissolution are taken into account in determining the sum payable to the association under paragraph (3).

Winding up of registered housing associations

131. Subject to section 64(a) of the Act of 1969, the Department may present a petition for the winding up under the Companies Acts (Northern Ireland) 1960 and 1978 of a registered housing association on the ground that the association is failing properly to carry out its purposes or objects.

1960 c.22
1978 NI 12

Transfer of net assets on dissolution of registered housing associations

132.—(1) If a registered housing association is dissolved as mentioned in paragraph (a) or (b) of section 64 of the Act of 1969 then, notwithstanding anything in that Act or in the rules of the association, there shall be transferred to the Department, or, if the Department so directs, to such registered housing association as may be specified in the direc-

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tion, so much of the property of the association as remains after meeting the claims of its creditors and any other liabilities arising on or before the dissolution.

(2) If it appears to the Department to be appropriate to do so in order to avoid the necessity for the sale of any land belonging to a registered housing association which is being dissolved as mentioned in paragraph (1) and thereby secure the transfer of the land under that paragraph, the Department may make payments to discharge any such claims or liabilities as are referred to in that paragraph.

(3) The Department may not dispose of any property transferred to it by virtue of paragraph (1) otherwise than to a registered housing association, and in any case where the property so transferred to the Department includes land subject to an existing mortgage, the Department may dispose of the land subject to that mortgage.

(4) Notwithstanding anything in paragraph (3), where property is transferred to the Department by virtue of paragraph (1) on the dissolution of a registered housing association which is a charity, the Department may not dispose of that property except to another registered housing association which is a charity and the objects of which appear to the Department to be, as nearly as practicable, akin to those of the association which was dissolved.

Restrictions on exercise of certain powers of registered housing associations

133.—(1) The provisions of this Article apply in relation to a registered housing association, the registration of which by the Department has been recorded by the registrar under Article 126(2), and references in the following provisions of this Article to a registered housing association shall be construed accordingly.

(2) The registrar shall not register a special resolution, as defined in section 59(2) of the Act of 1969, which is passed by a registered housing association for the purposes of section 59 or 60 of that Act (amalgamation of societies and transfer of engagements between societies) unless, together with the copy of the special resolution sent to him as mentioned in section 59(4) of that Act, there is sent a copy of the Department's consent to the amalgamation or transfer concerned.

(3) Section 61 of the Act of 1969 (power of registered society to convert itself into, or to transfer its engagements to, a company registered under the Companies Act (Northern Ireland) 1960) shall not apply to a registered housing association.

(4) If, in pursuance of section 64(a) of the Act of 1969, a registered housing association resolves by special resolution, as defined in section 135 of the Companies Act (Northern Ireland) 1960, that it be wound up voluntarily, the resolution shall not have effect for the purposes of that Act as a resolution for voluntary winding up unless—

(a) before the passing of the resolution the Department has given its consent to the passing of the resolution, and

- (b) together with the copy of the resolution required to be forwarded to the registrar under section 137 of the Companies Act (Northern Ireland) 1960 (as that section has effect by virtue of the said section 64(a)) there is forwarded a copy of the Department's consent.

(5) If, in pursuance of section 64(b) of the Act of 1969, a registered housing association is to be dissolved by an instrument of dissolution, the registrar shall neither register that instrument, as required by section 67(5) of that Act, nor cause notice of the dissolution to be advertised as mentioned in section 67(6) unless, together with the instrument of dissolution required to be sent to him under section 67(4), there is sent a copy of the Department's consent to the making of that instrument.

Payments by registered housing associations to members, etc.

134.—(1) Subject to paragraph (2), a registered housing association shall not make a gift or pay any sum by way of dividend or bonus—

- (a) to any person who is or has been a member of the association;
or
- (b) to any person who is a member of the family of any such person as is referred to in sub-paragraph (a); or
- (c) to any company of which a person falling within sub-paragraph (a) or (b) is a director.

(2) Paragraph (1) does not apply to—

- (a) any sum paid, in accordance with the rules of the association concerned, as interest on capital lent to the association or subscribed by way of shares in the association; or
- (b) any sum which—
 - (i) is paid by an association whose rules restrict membership to persons who are tenants or prospective tenants of the association and preclude the granting or assignment of tenancies to persons other than members; and
 - (ii) is paid to a person who has ceased to be a member of the association; and
 - (iii) is due to that person under the terms of the agreement under which he became a member of the association.

(3) The Department may specify the maximum amounts which may be paid by a registered housing association by way of fees or other remuneration or by way of expenses to a person who is a member of the association, and different amounts may be so specified for different purposes.

(4) Where a sum which exceeds any maximum amount for the time being specified under paragraph (3) is paid to a person who is a member of the association by a registered housing association to which that paragraph applies, the amount by which that sum exceeds that maximum amount shall be recoverable by the association.

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(5) The Department may prescribe conditions, subject to which a registered housing association may enter into contracts—

- (a) with a member of the committee of that association, or
- (b) in which a member of the committee of that association has a direct or indirect interest,

for the provision of goods or services to the association in return for payment.

(6) In prescribing conditions for the purposes of paragraph (5) the Department may prohibit a registered housing association from entering into such contracts as the Department may see fit.

(7) Any sum paid to a person under a contract which contravenes paragraph (5) shall be recoverable by the association making the payment.

Disclosure of interest by members of committees of registered housing associations

135.—(1) Subject to this Article, it shall be the duty of a member of the committee of a registered housing association who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the association to declare the nature of his interest to the committee in accordance with this Article.

(2) In the case of a proposed contract, the declaration required by this Article to be made by a member of a committee shall be made at the meeting of the committee at which the question of entering into the contract is first taken into consideration, or, if the member was not at the date of that meeting interested in the proposed contract, at the next meeting of the committee held after he becomes interested in the proposed contract.

(3) Where a member of a committee becomes interested in a contract with the association after it is made, the declaration required by this Article shall be made at the first meeting of the committee held after he becomes interested in the contract.

(4) For the purposes of this Article, a general notice given at a meeting of the committee of an association by a member of the committee to the effect that he is a member of a specified company or firm, and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm, is a sufficient declaration of interest in relation to any contract made after that date with that company or firm.

(5) A member of a committee need not make a declaration or give a notice under this Article by attending in person at a meeting of the committee if he takes reasonable steps to secure that the declaration or notice is brought up and read at the meeting.

(6) A member of a committee who fails to comply with this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(7) Nothing in this Article shall be taken to prejudice the operation of any rule of law restricting members of the committee of a registered housing association from having any interest in contracts with the association.

Great Britain societies

136. Section 102(3) of the Act of 1969 (which provides that references to a registered society in certain provisions of that Act are to include references to a registered Great Britain society where copies of its registered rules have been recorded by the registrar) shall not apply for the purposes of this Chapter.

CHAPTER III

FINANCIAL ASSISTANCE FOR HOUSING ASSOCIATIONS

Housing association grants

137.—(1) The Department may, upon application to it and in accordance with Article 138, make grants (in this Chapter referred to as “housing association grants”) to registered housing associations in respect of their expenditure in connection with housing projects approved by the Department.

(2) For the purposes of this Chapter a project is a housing project if it is undertaken for all or any of the following purposes, namely,—

- (a) providing residential accommodation,
- (b) improving such accommodation,
- (c) repairing such accommodation,
- (d) providing land or buildings for purposes which, in the opinion of the Department, will be for the benefit of persons for whom any residential accommodation is or is to be provided; and
- (e) improving or repairing any such land or buildings as are referred to in sub-paragraph (d).

(3) Subject to paragraph (4), the housing association grant payable to a registered housing association in respect of a housing project approved by the Department shall be equal to the net cost of the project to the association.

(4) The Department may, with the consent of the Department of Finance, determine maximum levels of cost or of grant applicable to housing projects generally, to any particular housing project or to any description of housing project, and the amount of the housing association grant payable in respect of a project to which any such determination applies shall be limited in accordance with the determination.

(5) Subject to paragraph (6), for the purposes of this Article the net cost of a housing project to a registered housing association means the difference between—

- (a) the estimated expenditure of the association, which, in the opinion of the Department, is attributable to the project and

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reasonable and appropriate, having regard to all the circumstances, and

- (b) the estimated income which, in the opinion of the Department, the association might reasonably be expected to receive in respect of the project, including any sums received or to be received by way of grant, subsidy or contribution under any statutory provision, other than this Article,

and for this purpose estimated expenditure and estimated income shall be calculated in such manner as the Department may, with the consent of the Department of Finance, determine, and any such calculation may take account of expenditure likely to be incurred and income likely to be received after the completion of the project in connection with the premises to which the project relates.

(6) If, in the case of an application for a housing association grant in respect of a particular project, it appears to the Department that it would be appropriate to do so, the Department may for the purposes of this Article determine the net cost of the project to the association in such manner as the Department considers appropriate instead of in accordance with paragraph (5).

(7) Before making any general determination for the purposes of paragraph (4) or (5), the Department shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate.

Payments of housing association grant

138.—(1) According as the Department may determine, a housing association grant in respect of a housing project shall be payable—

- (a) in a single sum at such time as, in the opinion of the Department, the project is completed, or
(b) in annual instalments beginning in the financial year in which, in its opinion, the project is completed and continuing over such number of years as the Department may determine, either generally or in relation to the particular project,

but, in either case, the Department may, if it considers it appropriate to do so, make payments on account of the grant before the project is completed.

(2) In giving its approval to a housing project for the purposes of a housing association grant, the Department may provide that payment of the grant is conditional upon compliance by the housing association concerned with such conditions as it may specify, including (in a case where the project has not yet been completed) conditions as to the period within which it is to be completed.

(3) The Department may reduce the amount of, or of any payment in respect of, a housing association grant or suspend or discontinue any instalments of such a grant—

- (a) if it imposed any conditions under paragraph (2) and any of those conditions have not been complied with; or
- (b) if it is satisfied that the whole or any part of a building to which the project relates and which comprises or is intended to comprise housing or residential accommodation—
 - (i) has been converted, demolished or destroyed; or
 - (ii) is not fit to be used or is not being used for the purpose for which it was intended; or
 - (iii) has been sold or leased; or
 - (iv) has ceased for any reason whatsoever to be vested in the housing association concerned or in trustees for that association.

(4) If at any time any dwelling or hostel or part thereof to which a housing project relates is leased or becomes vested in a registered housing association or trustees for a registered housing association, other than the association by whom the application for the housing association grant relating to that project was made, the Department may pay to that other association the whole or any part of the grant or any instalment thereof which would otherwise have been paid after that time to the association by whom the application for the grant was made.

(5) If, at any time after a housing association grant or any payment in respect of such a grant has been made to a registered housing association, it appears to the Department that any building to which the housing project concerned relates has ceased to be available for use for the purposes for which, at the time the project was approved, it was intended that it should be used, the Department may direct the association to pay to it an amount equal to the whole or such proportion as it may determine of that grant or, as the case may be, of any payment made in respect of it; and any amount which a registered housing association is directed to repay to the Department under this paragraph shall be recoverable as a debt in any court of competent jurisdiction.

(6) For the purposes of this Article, the whole or any part of any building is leased if and only if it is leased for a term exceeding 7 years, or for a term not exceeding 7 years granted by a lease which confers on the lessee an option for renewal for a term which, together with the original term, exceeds 7 years.

Revenue deficit grants

139.—(1) The Department may, in accordance with this Article, pay a grant (in this Article referred to as a “revenue deficit grant”) to a registered housing association, if the association incurs a deficit on its annual revenue account for an accounting year of the association ending on or after 1st January 1976.

(2) No revenue deficit grant shall be payable in respect of an accounting year of a registered housing association unless—

- (a) an application in respect of that year is made by the association

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to the Department not later than the expiry of the period of 15 months beginning immediately after the end of that year and that application is approved by it; and

- (b) the application is in such form and contains such information as the Department may determine; and
- (c) the application is accompanied by the audited accounts of the association for the accounting year to which the application relates.

(3) For the purposes of this Article, a registered housing association shall be treated as incurring a deficit on its annual revenue account for an accounting year of the association if—

- (a) the expenditure of the association for that year which, in the opinion of the Department, is attributable to houses provided by the association and any related property, and is reasonable and appropriate having regard to all the circumstances;

exceeds

- (b) the income which, in the opinion of the Department, the association might reasonably be expected to receive in respect of those houses and related property in that year, including any sums received or to be received in respect of that year by way of grant or subsidy under any statutory provision, other than this Article;

and for this purpose expenditure and income shall be calculated in such manner as the Department may, with the consent of the Department of Finance, determine.

(4) The revenue deficit grant payable to a registered housing association in respect of any accounting year shall be of such amount as the Department may determine in relation to that association but shall not be greater than the amount of the excess determined for that year under paragraph (3).

(5) If the Department considers it appropriate to do so it may make payments on account of any revenue deficit grant which it considers is likely to become payable to a registered housing association in respect of any accounting year but, subject thereto, any such grant shall be paid in a single sum in respect of the accounting year to which it relates.

(6) In paragraph (3) “related property”, in relation to houses provided by a housing association, means property of the association which is provided for the benefit of the persons occupying those houses.

Hostel deficit grants

140.—(1) The Department may, in accordance with this Article, make a grant (in this Article referred to as a “hostel deficit grant”) to any registered housing association which, in relation to a hostel managed by the association, incurs a revenue deficit in respect of an accounting year of the association ending on or after 1st January 1976.

(2) No hostel deficit grant shall be payable to a registered housing association in respect of any accounting year of the association unless an application in respect of that year is made by the association to the Department not later than the expiry of the period of 15 months beginning immediately after the end of that year and that application is approved by it.

(3) For the purposes of this Article, a registered housing association shall be treated as incurring, in relation to any hostel managed by it, a revenue deficit in respect of an accounting year of the association if—

- (a) the expenditure of the association for that year which, in the opinion of the Department, is attributable to the hostel and reasonable and appropriate having regard to all the circumstances;

exceeds

- (b) the income which, in the opinion of the Department, the association might reasonably be expected to receive in respect of the hostel in that year, including any sums received or to be received in respect of that year by way of grant or subsidy under any statutory provision, other than this Article, and so much as is reasonably attributable to the hostel of any sums received or to be received by the association in respect of that year otherwise than by reference to a specific hostel or purpose;

and for this purpose expenditure and income shall be calculated in such manner as the Department may, with the consent of the Department of Finance, determine.

(4) In any case where more than one hostel is managed by the same registered housing association and that association makes an application for a hostel deficit grant in respect of any accounting year of the association, the Department may, if it considers it appropriate to do so, treat all the hostels managed by the association, or any two or more of them, as a single hostel for the purpose of determining whether the association incurred a revenue deficit in respect of that year in relation to those hostels.

(5) The hostel deficit grant payable to a registered housing association in respect of any accounting year shall be of such amount as the Department may determine in relation to that association but shall not be greater than the amount of the excess determined for that year under paragraph (3).

(6) According as the Department may determine, a hostel deficit grant payable to a registered housing association in respect of any accounting year shall be payable—

- (a) in a single sum, or
- (b) in instalments payable at such times and in such manner as the Department may determine;

but, in either case, if the Department considers that a registered housing

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association is likely to be entitled to a hostel deficit grant in respect of any accounting year, it may make payments on account of such a grant before the expiry of that year.

(7) An application under paragraph (2) shall be in such form and contain such information as the Department may determine.

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OPTION MORTGAGES

Interpretation

141. In this Part—

1962 c.37
1967 c.31

“building society” means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967;

1970 c.31

“friendly society” means a registered society or branch within the meaning of the Friendly Societies Act (Northern Ireland) 1970 or a registered Great Britain society, within the meaning of section 104(5) of that Act, the rules of which are recorded in Northern Ireland;

“housing association” has the meaning given in Article 114;

1974 c.49

“insurance company” means an insurance company to which Part II of the Insurance Companies Act 1974 applies and, except in Article 152, includes a company which is not such an insurance company but whose business consists only of business which is complementary to insurance business of the classes carried on by one or more such insurance companies and every member of which is—

(a) such an insurance company to whose business its business is so complementary; or

1960 c.22

(b) a company which is not such an insurance company but which, for the purposes of paragraph 24 of Schedule 6 to the Companies Act (Northern Ireland) 1960, is a wholly owned subsidiary of a company such as is mentioned in sub-paragraph (a) of this definition; or

(c) a nominee of a company such as is mentioned in sub-paragraph (a) or (b) of this definition;

“option notice” means a notice under Article 142(2);

“repayment contract” has the meaning given in Article 142(1)(c).

Right to opt for subsidy for certain loans in connection with houses

142.—(1) This Article shall have effect where a person borrows, or two or more persons borrow jointly, from a qualifying lender on the security of a freehold or leasehold estate of the borrower or of one or more of the borrowers (including an estate held jointly or in common by the borrower or one or more of the borrowers and one or more other persons) in land in Northern Ireland and—

- (a) application for the loan is made on or after 1st April 1978; and
- (b) the loan is for or in connection with, or is made with a view to the repayment by means thereof of the amount outstanding on a previous loan for or in connection with, one or more of the following purposes, that is to say—
 - (i) acquiring, or acquiring a site for, or constructing, or
 - (ii) providing by the conversion of a building on that land, or
 - (iii) altering, enlarging, repairing or otherwise improving, a house on that land; and
- (c) the contract requiring repayment of the loan (in this Part referred to as the “repayment contract”) includes provision for the making by the borrower to the lender of the periodical payments consisting wholly or partly of payments of interest; and
- (d) the loan is not one to which a direction under Article 143(1) for the time being applies.

(2) The borrower may by notice in writing to the lender in such form as the Department may direct (in this Part referred to as an “option notice”) elect that the loan shall be subsidised in accordance with this Part and as respects the period, if any, for which, in accordance with paragraphs (3) and (4), the option notice has effect—

- (a) the lender shall—
 - (i) treat the borrower, in pursuance of a scheme made by the Department for the purpose in accordance with Article 151(1), as having paid at such times and by such instalments as may be determined under the scheme sums not in fact paid by him of an aggregate amount determined in accordance with Article 149 towards the amounts due from him under the repayment contract; and
 - (ii) be entitled to receive from the Department, subject to any directions of the Department under Article 151(2), payments equal in the aggregate to the aggregate amount aforesaid;
- (b) notwithstanding anything in the Income Tax Acts, the borrower—
 - (i) shall not, in computing his total income, be entitled to a deduction in respect of any amount payable by way of interest under the repayment contract;
 - (ii) shall not be entitled to relief from income tax in respect of any such interest;
 - (iii) shall be neither permitted nor required to make any deduction of income tax from any such payment of interest;
- (c) for the purposes of income tax and corporation tax, any payment received by the lender under sub-paragraph (a)(ii) shall be treated as an annual amount chargeable to tax under Case III of Schedule D.

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(3) Subject to Article 143(6) and (7), an option notice in respect of a loan shall be of no effect unless the following conditions are satisfied, that is to say—

- (a) that notice in writing of intention to give the option notice was given to the lender at the time when application for the loan was made or by such later time as the lender may in that particular case allow; and
- (b) that the option notice was signed not later than the date when a repayment contract in respect of the loan was first entered into; and
- (c) that the borrower (and, in the case of joint borrowers, each of them) has signed and delivered to the lender a declaration that—
 - (i) the person signing the declaration is ordinarily resident in the United Kingdom,
 - (ii) the amount of the loan will not exceed the appropriate limit determined under Article 144, and
 - (iii) before the expiry of the period of 12 months beginning on the date referred to in sub-paragraph (b), the land in question will be used wholly or partly for the purposes of a house to be occupied wholly or partly as his or her residence by a specified person or persons in such circumstances that the residence condition in Article 145 is fulfilled,so, however, that such a declaration shall not constitute notice to the lender of any estate in that land which may be subsequently acquired by any person other than the borrower; and
- (d) in a case where the specified person or persons named in a declaration under sub-paragraph (c) is, are or include the borrower or all or any of the joint borrowers, that, if the borrower or, in the case of joint borrowers, any of them is married and is not treated for income tax purposes as living apart from his spouse, the borrower or, as the case may be, each of those joint borrowers and (in either case) his spouse have signed and delivered to the lender a declaration either that there is no existing loan—
 - (i) the whole or any part of the interest on which is payable (whether alone or jointly with any other person) by the spouse, and
 - (ii) in respect of which an option notice for the time being has effect or in respect of which a claim for relief has been or is to be made under section 75 of the Finance Act 1972 (relief for payment of interest), and
 - (iii) which relates to, or was made with a view to the repayment of a previous loan which related to, land used wholly or mainly for the purposes of a house (not being the house to which the declaration under sub-paragraph (c) relates)

which is that spouse's only or main residence or a caravan so used,

or that such a loan does exist but the spouse intends that, within the period of 12 months beginning on the date referred to in sub-paragraph (b), the house referred to in head (iii) will cease to be the spouse's only or main residence.

(4) Subject to paragraph (3) and Article 143 (7), an option notice shall have effect for the period beginning with the date of its signing and ending with whichever of the following events first occurs, namely—

- (a) the satisfaction of the borrower's debt to the lender;
- (b) the realisation of the security on the estate in land in question, whether or not the borrower's debt is fully satisfied thereby;
- (c) the said estate's ceasing to be security for the loan;
- (d) the vesting of the rights and obligations under the repayment contract of the borrower (or, in the case of joint borrowers, of both or all of them) in some other person who has become beneficially entitled to the estate in land in question;
- (e) the vesting of the lender's rights under the repayment contract in some other person, so, however, that, if at the expiration of the period of 3 months beginning with the date of that vesting that other person is a qualifying lender, the option notice shall not cease to have effect by virtue of this paragraph, and that notice and the provisions of this Part shall be treated as having continued to have effect during that period as if that other person were a qualifying lender notwithstanding that at any time during that period he was not so;
- (f) if the number of the periodical payments referred to in paragraph (1)(c) is not fixed by or ascertainable under the repayment contract, the expiration of 30 years from the beginning of the period for which the option notice has had effect;
- (g) the taking effect of a notice under Article 147;
- (h) the taking effect of a direction under Article 143(1) with respect to the loan;
- (i) if paragraph (5) of Article 145 applies, the expiry of the period of one month beginning with the date on which the lender receives a notification (or, if he receives more than one notification, the first notification) under that paragraph or, if he does not receive such a notification, the date on which the lender first becomes aware that the residence condition is not fulfilled as mentioned in that Article;
- (j) if paragraph (6) of Article 145 applies and the lender receives a notification in accordance with that paragraph, the expiry of the period of 12 months beginning with the date specified in that notification, and if that paragraph applies but the lender does not receive such a notification, the expiry of the period of one month beginning with the date on which the lender first

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becomes aware that the residence condition is not fulfilled as mentioned in that Article;

- (k) if the lender becomes aware that a declaration under paragraph (3)(c) or (d) is false in a material particular, the expiry of the period of one month beginning with the date on which the lender first becomes so aware.

(5) This Part shall have effect with respect to any loan notwithstanding any provision with respect to the making of loans by the lender in question contained in, or in any instrument made under, any other statutory provision.

Directions by the Department for the purposes of Article 142

143.—(1) The Department may, after consultation with such qualifying lenders or bodies representative of qualifying lenders as may appear to it appropriate, direct that subsidy in accordance with this Part shall not be available in the case of any loan to which the direction applies, being a loan falling within paragraph (2).

(2) A loan is one in respect of which a direction may be made under paragraph (1) if the terms of the repayment contract (as originally entered into or as subsequently varied) are such that the amount due from the borrower for any period by way of interest under the repayment contract is less than the total of the interest which accrues in respect of that period, so that part of the interest is treated as an addition to the capital outstanding or is otherwise carried forward.

(3) In considering whether to make a direction under paragraph (1) with respect to any loan, the Department shall follow such principles, and take account of such matters, as it may decide after the like consultation as is specified in that paragraph.

(4) A direction under paragraph (1) may be made with respect to a particular loan or loans or any description of loans, and, in so far as the direction relates to a loan in respect of which an option notice has already been given, the direction shall specify a date (being a date after the giving of the direction) with effect from which the direction is to take effect with respect to any such loan.

(5) Any provision of paragraph (1) or (3) which imposes on the Department a duty to consult any persons or bodies appearing to it to be appropriate shall not be taken as implying that further consultation is required by the provision where the Department is satisfied that there was consultation before the coming into force of that paragraph and in its opinion that consultation was sufficient for the purpose.

(6) The Department may direct that, in such cases as may be specified in the direction, being cases where the borrower is a trustee for a person who is a minor, an option notice shall, if the qualifying lender in question so agrees, have effect as if, instead of the conditions specified in Article 142(3)(c) and (d) there are satisfied such other conditions as may be specified in the direction; and where any such direction has effect in relation to an option notice, Article 145(5) and (6) shall apply

as if the reference therein to the residence condition were a reference to such a condition as may be specified.

(7) The Department may direct that, in such circumstances or in such cases as may be specified in the direction, an option notice shall, if the qualifying lender in question agrees, have effect notwithstanding that the conditions specified in Article 142(3)(a) and (b) are not satisfied; but the period for which an option notice has effect by virtue of this paragraph shall not begin—

(a) if the lender is a building society whose financial year ends on a date not earlier than 30th September, until 1st April next after the end of the financial year of the society in which the option notice is signed; or

(b) in any other case, until 1st April falling between 3 and 15 months after the date of the signing of the option notice,

except where the lender agrees to its beginning on an earlier 1st April falling after the date of the signing of the option notice.

(8) In the case of an option notice to which a direction under paragraph (7) applies, Article 142(3)(c) shall have effect as if for the words from “before the expiry” to “to be occupied” there were substituted the words “the land in question is being and will continue to be used wholly or partly for the purposes of a house occupied”.

Appropriate limit for loans

144.—(1) In relation to a loan in respect of which an option notice has been signed (in this Article referred to as “the relevant loan”) the appropriate limit referred to in paragraph (3)(c) of Article 142 is £25,000 reduced by the amount, or, as the case may require, the aggregate amount outstanding by way of capital on the date referred to in paragraph (3)(b) of that Article in respect of every loan—

(a) the whole or any part of the interest on which is payable (whether alone or jointly with any other person) by the borrower who signed the declaration under the said paragraph (3)(c) or, in the case of joint borrowers, by any of the borrowers who signed that declaration or, where that borrower or any of those joint borrowers is married and is not treated for income tax purposes as living apart from his spouse, that spouse; and

(b) which falls to be taken into account by virtue of paragraph (2) and is not to be disregarded by virtue of paragraph (4).

(2) Subject to paragraphs (3) and (4), a loan falls to be taken into account under paragraph (1) if—

(a) it is a loan in respect of which an option notice for the time being has effect; or

(b) it is a loan to which Part I of Schedule 9 to the Finance Act 1972 (loans for purchase or improvement of land on which interest is eligible for relief in full) for the time being applies (either in respect of the whole loan or subject to any limit of amount),

1972 c.41

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and the land or caravan referred to in that Part is not used in such circumstances that it falls within paragraph 4(1)(b) of Schedule 1 to the Finance Act 1974 (commercial lettings).

1974 c.30

1954 c.33

1972 c.41

(3) Without prejudice to section 11(1) of the Interpretation Act (Northern Ireland) 1954 the reference in paragraph (2)(b) of Schedule 9 to the Finance Act 1972 is a reference to that Schedule either as amended by Schedule 1 to the Finance Act 1974 (restrictions on relief for interest) or (if interest on the loan is excepted from section 19(3) of that Act) as originally enacted; and in the case of a loan to which the said Schedule 9 applies as originally enacted, the reference in paragraph (2)(b) to the use of land or a caravan in circumstances falling within paragraph 4(1)(b) of the said Schedule 1 shall be construed as a reference to use which would fall within that paragraph if that Schedule applied in relation to interest on the loan in question.

(4) Notwithstanding anything in paragraph (2), a loan (in this paragraph referred to as a "previous loan") which falls within sub-paragraph (a) or (b) of that paragraph shall be disregarded in determining the appropriate limit in relation to the relevant loan if—

- (a) the relevant loan is made with a view to the repayment by means of the relevant loan of the amount outstanding on the previous loan; or
- (b) the previous loan is an existing loan which is specified in a declaration made for the purpose of satisfying, in relation to the relevant loan, the condition in Article 142(3)(d); or
- (c) the previous loan was in connection with the only or main residence of a person who is, or is a qualifying relative of, the borrower or any of the joint borrowers under the relevant loan and the relevant loan is made for or in connection with any one or more of the purposes specified in Article 142(1)(b) in such circumstances that the house referred to in that Article is to be used instead as that person's only or main residence.

(5) In any case where the option notice in respect of the relevant loan is one to which a direction under Article 143(6) applies, the preceding provisions of this Article shall have effect subject to such modifications as may be prescribed.

Residence condition

145.—(1) For the purposes of this Part, the residence condition is fulfilled with respect to a house to which a declaration under Article 142(3)(c) relates if and so long as—

- (a) the house is occupied wholly or partly as his only or main residence by the borrower himself or, in the case of joint borrowers by each of them; or
- (b) at any time when the borrower or any joint borrower does not occupy the house as mentioned in sub-paragraph (a) the house is so occupied by a qualifying relative of his.

(2) For the purposes of this Part a person is a qualifying relative of a borrower (or a joint borrower) if he or she is—

- (a) the borrower's spouse and is living apart from the borrower;
- (b) the borrower's former spouse;
- (c) the mother of either the borrower or his spouse and is widowed or living apart from her husband or, in consequence of dissolution or annulment of marriage, is a single woman; or
- (d) such a relative of the borrower or his spouse as is specified in paragraph (3) and is either over the age of 65 or incapacitated by infirmity from maintaining himself, in whole or in part.

(3) The relatives referred to in paragraph (2)(d) are—

- (a) a parent or grandparent;
- (b) a brother or sister who is over the age of 16; and
- (c) a child or grandchild (in either case whether legitimate, adopted or illegitimate) who is over the age of 16.

(4) A person shall be treated for the purposes of this Article as living apart from his or her spouse if he or she would be so treated for income tax purposes.

(5) If, after the delivery of a declaration under Article 142(3)(c) (other than a declaration delivered in respect of an option notice to which a direction under Article 143(6) applies), the residence condition is not, within the period of 12 months specified in that paragraph, fulfilled with respect to the house concerned, then, within the period of one month beginning on the day following the expiry of that period of 12 months, the borrower, or in the case of joint borrowers each of them, shall notify the lender in writing to that effect.

(6) If, at any time after—

- (a) the delivery of a declaration under Article 142(3)(c), and
- (b) the residence condition has been fulfilled with respect to the house concerned,

the residence condition ceases to be so fulfilled, then, within the period of one month beginning on the date on which that condition first ceased to be so fulfilled, the borrower, or in the case of joint borrowers each of them, shall notify the lender in writing of the date on which the condition ceased, and of the fact that it has ceased, to be so fulfilled.

(7) Any person who knowingly fails to notify the lender as required by paragraph (5) or (6) shall be liable—

- (a) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment;
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

PART VIII

Extension of right to opt for subsidy to certain other cases

146.—(1) Where, after a person has borrowed, or two or more persons have borrowed jointly, as mentioned in Article 142(1), the rights and obligations under the repayment contract of the borrower (or, in the case of joint borrowers, of both or all of them) become or have become vested in some other person or persons who has or have become beneficially entitled to the estate in the land in question, then, whether or not an option notice has had effect in respect of the loan, Article 142(2) to (5) and Article 143 shall apply in relation to the loan as if—

- (a) for any reference in those provisions to the borrower or borrowers there were substituted a reference to that other person or those other persons; and
- (b) in Article 142(3)—
 - (i) sub-paragraph (a) were omitted;
 - (ii) for the reference in sub-paragraph (b) to the date there mentioned there were substituted a reference to the date of the vesting; and
- (c) in paragraph (4) of Article 142 the date specified as the beginning of the period for which the option notice has effect were the date of the vesting.

(2) Where, after a person has borrowed, or two or more persons have borrowed jointly, as mentioned in Article 142(1), the rights and obligations under the repayment contract of the borrower (or, in the case of joint borrowers, of both or all of them) become or have become vested in some other person or persons not beneficially entitled to the estate in the land in question and no option notice has had effect in respect of the loan—

- (a) the Department may exercise its powers to give a direction under Article 143(7), and
- (b) thereupon Article 142(2) to (5) and Article 143 shall, subject to such modifications as may be prescribed, apply in relation to the loan,

as if for any reference in those provisions to the borrower or borrowers there were substituted a reference to that other person or those other persons and, except for the purposes of Article 143(6), as if the reference in Article 143(7) to the conditions specified in paragraph (3)(a) and (b) of Article 142 included a reference to the condition specified in paragraph (3)(c) of that Article.

(3) In relation to a case where a housing association for the time being approved for the purposes of section 341 of the Income and Corporation Taxes Act 1970 borrows or has borrowed from a qualifying lender on the security of a freehold or leasehold estate of that association in land in Northern Ireland, the Department may prescribe that this Part shall have effect with such adaptations and modifications of the provisions (other than Article 142(2)(b) and (c)) thereof appearing to the Department to be appropriate or expedient, and subject to such special

conditions appearing to the Department to be necessary or expedient as may be prescribed; and PART VIII

- (a) in relation to such a housing association, Article 142(2)(b) shall have effect as if—
 - (i) the reference therein to the Income Tax Acts included a reference to the Corporation Tax Acts; and
 - (ii) in head (ii) thereof, for the reference to income tax there were substituted a reference to corporation tax; and
- (b) without prejudice to Article 142(2)(b), as respects any period for which an option notice given by such a housing association has effect in respect of any loan, section 341(1)(b) of the Income and Corporation Taxes Act 1970 shall not apply to any interest payable under the repayment contract in respect of the loan;

1970 c.10

but if at any time while an option notice given by such a housing association has effect, the requirements of section 341(10) of the said Act of 1970 are not satisfied as respects that association, the Department may by notice in writing to the association declare that option notice to be of no effect as from the date of the giving of the Department's notice.

Right to terminate period for which option notice has effect

147.—(1) Where an option notice has been given in respect of a loan the person in whom the rights and obligations under the repayment contract are for the time being vested may by notice to the lender bring the period for which the option notice has effect to an end on 31st March of any year not earlier than 1982, but only if not less than 4 years have then elapsed since the date of the repayment contract.

(2) A notice under this Article must be in writing and in such form as the Department may direct and must be given not less than 3 months before the date on which it is to take effect.

Qualifying lenders

148.—(1) Qualifying lenders for the purposes of this Part shall be any of the following bodies lending in pursuance of powers apart from this Part—

- (a) building societies designated under section 1 of the House Purchase and Housing Act 1959;
- (b) the Department of Finance;
- (c) district councils;
- (d) the Northern Ireland Housing Executive;
- (e) trustee savings banks; and
- (f) such bodies of such of the following descriptions as the Department may by order specify for the purposes of the provision in question, namely—
 - (i) building societies not designated as aforesaid;

1959 c.33

PART VIII

- (ii) insurance companies;
 - (iii) friendly societies.
- (2) No order shall be made under paragraph (1)(f)—
- (a) with respect to a building society or friendly society except after consultation with the Registrar of Friendly Societies for Northern Ireland;
 - (b) with respect to an insurance company except after consultation with the Department of Commerce;
 - (c) removing any such society or company as aforesaid from the list of qualifying lenders except—
 - (i) on the application of the society or company, or
 - (ii) where the society or company has ceased to exist, or
 - (iii) where the removal is in the opinion of the Department expedient in the public interest,

and the removal of any body from the list of qualifying lenders shall not affect any right or obligation of any person under this Part in connection with any loan if an option notice in respect thereof had effect immediately before the date on which the removal takes effect.

Aggregate amount of subsidy

149.—(1) In the case of any loan subsidised under this Part, the aggregate amount at any time of the sums referred to in paragraph (2)(a)(i) of Article 142 shall be the difference, if any, between—

- (a) the aggregate sum which, taking account of paragraph (2) but otherwise apart from the provisions of this Part, would have become due from the borrower up to that time during the period for which the option notice in respect of the loan has had effect by way of interest on the amount from time to time outstanding by way of capital in connection with the loan if that interest had been calculated in the manner and at the rate per annum which would have been applicable under the repayment contract; and
- (b) what that aggregate sum would have been if that interest had been calculated at such rate per annum as the Department may by order specify.

(2) In any case where under the terms of a repayment contract (as originally entered into or as subsequently varied) the amount due from the borrower for any period by way of interest under the repayment contract is less than the total of the interest which accrues in respect of that period so that part of the interest is treated as an addition to the capital outstanding or is otherwise carried forward then, for the purpose of determining the aggregate amount of the subsidy in respect of the loan, there shall be treated as becoming due from the borrower in any period the whole of the interest which accrues in that period.

(3) An order made under paragraph (1) shall be subject to affirmative resolution.

Recovery of subsidy

PART VIII

150.—(1) If a declaration under Article 142(3)(c) or (d) is false in a material particular, the Department may recover from the borrower or, as the case may be, jointly and severally from the borrowers an amount equal to the total of the payments received by the lender by virtue of paragraph (2)(a)(ii) of Article 142 in relation to the loan in respect of which the declaration was made.

(2) If, in a case where paragraph (5) of Article 145 applies, the lender does not receive a notification under that paragraph, the Department may recover from the borrower or, as the case may be, jointly and severally from the borrowers, an amount equal to the total of the payments received by the lender as mentioned in paragraph (1) after the expiry of the period of 2 months beginning on the day following the expiry of the period of 12 months specified in Article 145(5).

(3) If, in a case where paragraph (6) of Article 145 applies, the lender does not receive a notification under that paragraph, the Department may recover from the borrower or, as the case may be, jointly and severally from the borrowers, an amount equal to the total of the payments received by the lender as mentioned in paragraph (1) after the expiry of the period of 2 months beginning with the date on which the condition specified in Article 145(6) first ceased to be fulfilled.

Schemes and directions

151.—(1) Before making any scheme for the purposes of paragraph (2)(a)(i) of Article 142, or before varying or revoking any scheme made for the purposes of that Article, the Department shall consult with such qualifying lenders or bodies representative of qualifying lenders of any description as may appear to it appropriate and any such scheme may include provision for any dispute between a borrower and a lender as to the effect of any such scheme with respect to the loan in question to be referred to and determined by the Department.

(2) Where an option notice has effect in respect of any loan, the lender shall supply the borrower, not later than the date when the option notice first has effect or such later date as the Department may direct, with a statement in writing in such form as the Department may direct of the effect of the appropriate scheme.

(3) No direction shall be given for the purposes of paragraph (2)(a)(ii) of Article 142 except after such consultation as aforesaid and with the approval of the Department of Finance; and such directions—

- (a) shall make provision as to the method and time of payments under paragraph (2)(a)(ii) of Article 142; and
- (b) may impose such conditions as to claims, records, certificates, audit, the provision of information by qualifying lenders to the Department or the Commissioners of Inland Revenue or other matters as may appear to the Department to be necessary or expedient.

PART VIII

(4) In addition to its powers to give directions as to the form of an option notice or of the statement referred to in paragraph (2), the Department may give directions as to the form of any other document for use in connection with this Part.

Guarantee of advances in excess of normal amount

152.—(1) The Department may, with the approval of the Department of Finance, enter into arrangements with any insurance company whereby, in the case of any loan to which the arrangements relate, being a loan by a qualifying lender to a person other than a housing association made on or after such date as the Department may by order appoint in the case of which—

- (a) an option notice has been given and has come into effect; and
- (b) the lender has agreed to advance a sum exceeding what would otherwise have been advanced subject to a third party approved by the lender guaranteeing to indemnify the lender against loss by reason of that agreement or, where the lender is an insurance company, subject to the borrower making to the company a single special payment of a specified amount; and
- (c) the insurance company, at the request of the borrower and with the approval of the lender, proposes to give that guarantee or, as the case may be, the borrower proposes to make that special payment,

the Department agrees with the insurance company to reimburse to the company one half of any sum paid by the company in pursuance of the guarantee or, as the case may be, of any loss suffered by the company as lender by reason of their said agreement with the borrower, and the company agrees with the Department to reduce by such amount as the Department and the company may agree to be appropriate the sum which would otherwise be required to be paid by or on behalf of the borrower to the company in respect of the grant of the guarantee or, as the case may be, by way of the single special payment aforesaid.

(2) In section 33(1) of the Building Societies Act (Northern Ireland) 1967 (advances for the payment of certain premiums) the reference to an appropriate policy of life assurance shall be construed as including a reference to a guarantee by an insurance company given in pursuance of arrangements under this Article; and section 26(3) of that Act (restriction on the amount of an advance in the case of certain guarantees given in pursuance of a continuing arrangement) shall not apply to a guarantee given in pursuance of arrangements under this Article.

1967 c.31

PART IX

HOME PURCHASE ASSISTANCE

Advances to lending institutions

153.—(1) The Department may make advances to recognised lending institutions enabling them to provide assistance under this Part to first-

time purchasers of house property in Northern Ireland, where it is property in which the purchaser intends to make his home.

(2) The assistance is to be available where finance for the purchase of the property (and improvements, if any) is obtained by means of a secured loan from the lending institution and the purchase price is within such price limits as the Department may prescribe by order which shall be subject to negative resolution.

(3) Assistance under this Part is to be dependent upon the purchaser satisfying conditions with respect to his own savings; and the first condition is that he shall—

- (a) have been saving with a recognised savings institution for at least 2 years preceding the date of his application for the assistance; and
- (b) throughout the 12 months preceding that date, have had at least £300 of such savings;

and the second condition is that he shall by that date have accumulated at least £600 of such savings; but the Department may allow for the conditions to be relaxed or modified in particular classes of cases.

(4) Assistance under this Part may be given as follows—

- (a) the secured loan may be financed by the Department to the extent of £600 (that amount being normally additional to that which the institution would otherwise have lent, but not so that the total loan can exceed the loan value of the property);
- (b) £600 of the total loan may be made free of interest, and of any obligation to repay principal, for up to 5 years from the date of purchase; and
- (c) the institution may provide the purchaser with a bonus on his savings (which bonus shall be tax-exempt), up to a maximum of £110, payable towards the purchase or expenses arising in connection with it.

(5) The purchaser may qualify for assistance under paragraph (4)(a) and (b) by satisfying both the conditions of paragraph (3), and qualify for bonus under paragraph (4)(c) by satisfying only the first of those conditions but he does not in any case qualify unless the amount of the secured loan is to be at least £1,600 and not less than 25 per cent of the purchase price of the property.

(6) The Department may, with the consent of the Department of Finance, by order which shall be made subject to negative resolution—

- (a) alter any of the money sums specified in paragraphs (3), (4) and (5) and the percentage figure specified in paragraph (5);
- (b) substitute any longer or shorter period for either or both of the periods mentioned in paragraph (3);
- (c) alter the second condition of paragraph (3) so that purchasers may also satisfy it with lesser amounts of savings, and enable

assistance under paragraph (4)(a) and (b) then to be given according to reduced scales specified in the order.

Administration

154.—(1) The lending institutions recognised for the purposes of Article 153 are specified in Part I of Schedule 10, and the savings institutions so recognised are specified in Part II of Schedule 10; and the Department may, with the consent of the Department of Finance—

- (a) add to either Part of the Schedule by order;
- (b) by order made in the case of a body named in it direct (but only after giving an opportunity for representations to be made on the body's behalf) that it be no longer a recognised institution.

(2) Advances to lending institutions shall be on such terms as to repayment and otherwise as may be settled by the Department with the consent of the Department of Finance, after consultation with lending and savings institutions or organisations representative of them; and the terms shall be embodied in directions issued by the Department.

(3) The following matters (among others) may be dealt with in the Department's directions—

- (a) the cases in which assistance under this Part is to be provided and the method—
 - (i) of determining loan value for the purpose of Article 153(4)(a), and
 - (ii) of quantifying bonus by reference to savings;
- (b) the considerations by reference to which a person is or is not to be treated as a first-time purchaser of house property;
- (c) the steps which must be taken with a view to satisfying the conditions of Article 153(3), and the circumstances in which those conditions are to be treated as satisfied;
- (d) the supporting evidence and declarations which are to be furnished by a person applying for the assistance, in order to establish his qualification for it, and the means of ensuring that restitution is made in the event of it being obtained by false representations; and
- (e) the way in which amounts paid over by way of assistance under this Part are to be repaid to the lending institutions and the Department.

(4) The Department may, to such extent as it thinks proper for safeguarding the lending institutions, include in the terms an undertaking to indemnify the institutions in respect of loss suffered in cases where assistance has been given under this Part.

Building society law

155.—(1) So much of any advance made by a building society as is financed under this Part or under the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 (in this Article referred to as

“the Act of 1978”) shall be treated as not forming part of the advance for the purpose of determining whether the advance, or any further advance made within 2 years of the date of purchase, is beyond the powers of the society.

(2) Undertakings of indemnity given under this Part or under the Act of 1978 are not to be treated for any purposes of the Building Societies Act (Northern Ireland) 1967 as additional security for an advance.

1967 c.31

(3) Section 28 of the said Act of 1967 (statutory notice to borrower where security taken from third party) does not apply by reason only of such undertakings having been given; but where that section applies to an advance made by a building society and partly financed under this Part or under the Act of 1978, the society—

(a) shall, in complying with section 28(3) of the said Act of 1967 as respects the contents of the notice, state the amount of the basic advance without including the amount which is so financed; and

(b) need not refer in the notice to those undertakings.

(4) Section 41 of the said Act of 1967 (certain statutory provisions to be set out in building society's acknowledgement of loan, etc.) does not apply to an acknowledgement given by a building society for an advance made under this Part or under the Act of 1978.

PART X

MISCELLANEOUS

Power of the Executive to guarantee repayment of certain advances

156. The Executive may, in accordance with proposals in that behalf made by it and approved by the Department, undertake to guarantee the repayment to any corporation or other body of persons approved by the Department of any advances, with interest thereon, made by the corporation or other body to any persons for the purpose of enabling such persons to build or acquire houses.

Inquiries

157. Without prejudice to any other provision of this Order relating to inquiries, the Department may cause an inquiry to be held in connection with any matter relating to housing where it appears to the Department to be advisable to do so.

Power to authorise superior landlord to enter and execute works

158.—(1) Where it is proved to the satisfaction of the court on an application in accordance with rules of court by any person entitled to any estate in any land used in whole or in part as a site for houses that the premises on the land are, or are likely to become, dangerous, or injurious to health, or unfit for human habitation, and that the interests of the applicant are thereby prejudiced, the court may make an order empowering the applicant forthwith to enter on the land and within the time fixed by the order to execute such works as may be necessary, and may order that any lease or agreement for a lease held from the

PART X

applicant and any derivative underlease shall be determined subject to such conditions and to the payment of such compensation as the court may consider just.

(2) The court shall include in its order provisions to secure that the proposed works are carried out.

(3) In this Article "court" means the High Court and, in relation to matters within the jurisdiction of a county court, includes the county court.

Department's power to enter on land, etc.

159. Articles 13 and 14 (Executive's power to enter on land and to obtain information as to the ownership of land) shall apply in relation to the functions exercisable by the Department under this Order as if for any reference in those Articles to the Executive there were substituted a reference to the Department.

Penalty for obstruction

160.—(1) Any person who wilfully obstructs an authorised person in the performance of anything which he is required or authorised to do by this Order shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

(2) In this Article "authorised person" means any person (including any officer of the Department or of the Executive) who is required or authorised under this Order to exercise any function.

Registration of certain matters as statutory charges

161.—(1) There shall be included among the matters which are required to be registered in the Statutory Charges Register—

- (a) any clearance order made under Article 33;
- (b) any notice served under Article 35;
- (c) any charge created under Article 42;
- (d) any declaration made under Article 47 declaring an area to be a proposed re-development area;
- (e) any declaration made under Article 52 declaring an area to be a housing action area, any extension of the duration of a housing action area under Article 53(2) and any amendment of such a declaration under Article 54;
- (f) any statutory conditions attached by virtue of an order made under Article 81;
- (g) any direction made under Article 104.
- (h) the statutory condition attaching by virtue of Article 123 to land held by a registered housing association and to grant-aided land as defined in Schedule 9 held by an unregistered housing association.

(2) An application for registration of—

- (a) any of the matters mentioned in sub-paragraphs (a) to (g) of

- paragraph (1) shall be made by the Executive within 2 months after the Executive has made the order or declaration, served the notice or paid the grant, as the case may be;
- (b) the statutory condition attaching to any land mentioned in sub-paragraph (h) of paragraph (1) shall be made by the Department—
- (i) where land is held by a housing association at the date of the coming into operation of this Order, within one month of that date,
- (ii) where land is acquired by a housing association after the date of the coming into operation of the Order, as soon as reasonably practicable after the acquisition of the land.

(3) Any person who suffers loss by reason of the failure of the Executive to comply with paragraph (2)(a) in so far as it relates to the matters mentioned in paragraph (1)(a), (b) or (d) or the failure of the Department to comply with paragraph (2)(b) may bring proceedings in any court of competent jurisdiction against the Executive or, as the case may be, the Department and recover from it the amount of that loss.

Regulations

162.—(1) The Department may make regulations prescribing anything which is to be prescribed and providing for any matter in regard to which regulations may be made under this Order and generally for carrying this Order into effect, and, without prejudice to the generality of the foregoing, may make regulations prescribing the form of any notice, advertisement, statement or other document which is required or authorised to be used under or for the purposes of this Order.

(2) Regulations under this Order shall be subject to negative resolution.

Amendments, savings and transitional provisions, repeals and revocation

163.—*Para.(1), with Schedule 11, effects amendments*

(2) Subject to the savings and transitional provisions set out in Schedule 12, the provisions mentioned in Schedule 13 are repealed or revoked to the extent shown in the third column of that Schedule.

SCHEDULES

SCHEDULE 1

Article 3(3).

THE NORTHERN IRELAND HOUSING EXECUTIVE

1.—(1) The Executive shall consist of nine persons appointed by the head of the Department of whom three shall be persons nominated by the Council from its members.

(2) The head of the Department shall appoint a member of the Executive to be its chairman and another member to be vice-chairman.

2.—(1) At least one of the members of the Executive shall be a woman.

SCH. 1

(2) Where—

- (a) at any time the head of the Department appoints a woman nominated by the Council to be a member of the Executive; and
 - (b) that woman ceases to be a member of the Executive for any reason;
- sub-paragraph (1) shall require the head of the Department to appoint a woman to be a member of the Executive only if—
- (i) the Council nominates a woman to fill that or any other vacancy among the members of the Executive appointed on the nomination of the Council; or
 - (ii) there is a vacancy among the members of the Executive who are appointed otherwise than on the nomination of the Council.

3.—(1) Subject to this paragraph, a member of the Executive shall hold and vacate office in accordance with the terms of his appointment.

(2) A person shall not be appointed a member for a term exceeding 5 years, but previous membership shall not affect eligibility for re-appointment.

(3) A member of the Executive who is appointed on the nomination of the Council shall cease to be such a member when he ceases to be a member of the Council.

(4) A member of the Executive may resign his membership at any time.

(5) The head of the Department may, by notice in writing addressed to a member, terminate his appointment as a member of the Executive if of the opinion that he is unfit to continue in office or incapable of performing his duties as member.

4. The Executive may act notwithstanding any vacancy in its membership.

5. The Executive may pay to its members such remuneration and other allowances as the Department may, with the approval of the Department of the Civil Service, determine.

6.—(1) The Executive may constitute committees of its members to which it may delegate such of its functions as it may specify.

(2) The functions and proceedings of any committee of the Executive shall be exercised subject to, or regulated in accordance with, any directions of the Executive.

7. Sections 28 to 33, 42, 46 to 48 and 146 of the Local Government Act (Northern Ireland) 1972, and section 148 of that Act so far as it applies for the interpretation of those sections, shall apply to the Executive and its members and officers as if—

- (a) in those sections any reference to a council were a reference to the Executive, any reference to a councillor were a reference to a member of the Executive and any reference to a clerk of a council were a reference to such officer of the Executive as the Department may specify;
- (b) in section 28(4) of that Act for the words from “by any local elector” onwards there were substituted the words “by any person”.

8.—(1) The common seal of the Executive shall, when applied to a document, be attested by the signature of a member of the Executive, or of an officer of the Executive authorised by it to act for the purposes of this paragraph.

1972 c.9

(2) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Executive by any person generally or specially authorised by the Executive to act for that purpose. SCH. 1

9. The validity of any proceedings of the Executive or of any of its committees shall not be affected by any defect in the appointment of any person acting as a member of the Executive or of any such committee.

10. In Part II of Schedule 1 to the Commissioner for Complaints Act (Northern Ireland) 1969 (public bodies subject to investigation) the following entry shall continue to be inserted at the appropriate point in alphabetical order:— 1969 c.25

The Northern Ireland Housing Executive.

SCHEDULE 2

Article 4(7).

THE NORTHERN IRELAND HOUSING COUNCIL

1.—(1) The Council shall, subject to sub-paragraph (2), consist of the chairman of each district council.

(2) A district council may at any time appoint one of its members as a member of the council in place of a person who is a member under sub-paragraph (1), and, where a person so appointed dies or resigns, the district council which appointed him may appoint another of its members in his place.

(3) A person who is a member of the Council by virtue of being appointed by a district council shall cease to be such a member if he ceases to be a member of that district council.

(4) A member of the Council may resign his membership at any time.

(5) A district council may remove a person appointed by it as a member of the Council and appoint another of its members in his place.

2. The Council may regulate its own proceedings.

3. The validity of any proceedings of the Council shall not be affected by any defect in the appointment of a person acting as a member of the Council.

4.—(1) The Council may constitute one or more committees to which it may delegate such of its functions as it may specify.

(2) A committee constituted under sub-paragraph (1) may include persons who are not members of the Council, but the majority of the members of the committee shall be members of the Council.

(3) The functions and proceedings of any committee constituted under sub-paragraph (1) shall be exercised subject to, or regulated in accordance with, any directions of the Council.

5. The Executive may pay to members of the Council such travelling, subsistence or other allowances as the Department may, with the approval of the Department of the Civil Service, determine.

Schedule 3 restates Amendments of 1972 c.9 (NI), made by 1976 NI 25 sch. 4 Pt. I

Articles 33(2),
34(3) and (5) and
35(7).

**SCHEDULE 4
CLEARANCE ORDERS**

PART I

MAKING AND OPERATION OF CLEARANCE ORDERS

1. A clearance order shall be in the prescribed form and shall describe by reference to a map the area to which it applies, and shall fix by reference to the date on which it becomes operative the period, not being less than 28 days from that date, within which the Executive requires the buildings in the area to be vacated for the purposes of demolition, and for that purpose may fix different periods as respects different buildings.

2.—(1) Before submitting the order to the Department the Executive shall—

(a) publish in one or more than one newspaper circulating within the district to which the clearance order relates a notice in the prescribed form stating the fact of such an order having been made and describing the area comprised therein and naming a place where a copy of the order and of the map referred to therein may be seen at reasonable times; and

(b) serve upon every owner, lessee and occupier (except tenants for a month or a less period than a month) of any building included in the area to which the order relates and, so far as it is reasonably practicable to ascertain such persons, upon every mortgagee thereof, a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Department for confirmation, and specifying the time within and the manner in which objections thereto can be made.

(2) For the purposes of sub-paragraph (1)(b), an occupier, being a tenant who retains possession by virtue of the Rent (Northern Ireland) Order 1978 and not by reason only of a contractual tenancy, shall be deemed to be a tenant for a period of less than a month.

3. So soon as may be after the required notices have been given, the Executive shall submit the order to the Department for confirmation.

4.—(1) If no objection, other than an objection which the Department is satisfied is of a frivolous or vexatious nature, is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, the Department may, if it thinks fit, confirm the order with or without modification; but in any other case the Department shall, before confirming the order, cause a public local inquiry to be held and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order, either with or without modification.

(2) The order as confirmed by the Department shall not apply to any building to which the order would not have applied if it had been confirmed without modification.

5. The Department may confirm an order, notwithstanding that the effect of the modifications made by the Department in excluding any buildings from the clearance area is to sever that area into two or more separate and distinct areas, and in any such case the provisions of this Schedule relating to the effect of an order when confirmed, and to the proceedings to be taken subsequent to the confirmation thereof, shall apply as if those areas formed one clearance area.

1978 NI 20

6. So soon as may be after a clearance order has been confirmed by the Department the Executive shall publish in a newspaper circulating in the district to which the order relates a notice in the prescribed form, stating that the order has been confirmed and naming a place where a copy of the order as confirmed and of any map or plan referred to therein may be seen at all reasonable times, and shall serve a like notice on every person who, having given notice to the Department of his objection to the order, appeared at a public local inquiry in support of his objection.

7. A clearance order shall become operative at the expiration of 6 weeks from the date on which notice of its confirmation is published in accordance with the provisions of paragraph 6.

8. So soon as may be after a clearance order has become operative, the Executive shall serve a copy thereof on every person on whom a notice was served by it of its intention to submit the order to the Department for confirmation.

9. When a clearance order has become operative, the owner of any building to which the order applies shall take down and remove that building before the expiration of 6 weeks from the date on which the building is required by the order to be vacated, or, if it is not vacated until after that date, before the expiration of 6 weeks from the date on which it is vacated, or in either case, before the expiration of such longer period as in the circumstances the Executive may deem reasonable; and, if the building is not taken down and removed before the expiration of that period, the Executive shall enter and take down and remove the building and sell the materials thereof.

10. Any expenses incurred by the Executive under paragraph 9, after giving credit for any amount realised by the sale of materials, may be recovered by it as a debt in the county court from the owner of the building, or, if there is more than one owner, from the owners thereof in such shares as the court may determine to be just and equitable.

11. Any surplus in the hands of the Executive shall be paid by it to the owner of the building or, if there is more than one owner, shall be paid as those owners may agree, or may, in default of agreement, be paid into the county court, and may be paid out to the owners by order of the court in such shares as the court may determine to be just and equitable.

PART II

ORDERS EXCLUDING BUILDINGS FROM A CLEARANCE AREA

12.—(1) Paragraphs 2 to 6 shall have effect in relation to exclusion orders under Article 34 subject to the modifications set out in sub-paragraphs (2) to (4).

(2) An exclusion order shall be in the prescribed form and shall describe by reference to a map—

- (a) the clearance area to which it relates,
- (b) the area affected by the clearance order to which it relates, and
- (c) the houses and other buildings to be excluded from the clearance area by it.

(3) For the purposes of sub-paragraph (1), a notice served under paragraph

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2(1)(b) shall also draw attention to the provisions of paragraphs 13 to 17 which come into effect on the making of the exclusion order.

(4) For the purposes of sub-paragraph (1), paragraph 4(2) shall have effect as if at the end the following words were added—

“except that the Department may under this paragraph modify an exclusion order so as to exclude a house or other building, which has been included in a clearance order, if every owner of the building and the occupier of every part of the building, has given his consent in writing.”

13. On the date on which an exclusion order is made—

- (a) paragraph 9; and
- (b) so much of the clearance order as relates to the vacation of buildings and any notice served under paragraph 8.

shall cease to apply to the houses and other buildings comprised in the exclusion order.

14.—(1) If—

- (a) the Department notifies the Executive that it declines to confirm the exclusion order; or
- (b) the exclusion order as confirmed does not comprise any houses or other buildings which were comprised in the order as submitted to the Department.

this paragraph shall have effect as regards the houses or other buildings in the unconfirmed order or, as the case may be, the houses or other buildings not comprised in the order as confirmed.

(2) The Executive

- (a) shall fix the date by which the houses or other buildings are to be vacated for the purposes of demolition, and
- (b) may fix different dates for different buildings;

and paragraphs 9 to 11 shall apply as if that date had been fixed for those purposes by the clearance order.

(3) The Executive shall not less than 28 days before the date (or the earliest date) fixed under sub-paragraph (2) serve on the owner or owners of the houses or other buildings a notice informing them of that date and of their duty under paragraph 9 as applied by this paragraph to demolish the houses or other buildings.

15.—(1) After the making of an exclusion order the right to any payment under Article 93 or 95 shall be suspended as respects the houses or other buildings comprised in the order, but

- (a) if the Department notifies the Executive that it declines to confirm the order, that right shall again be enforceable, and
- (b) if the order as confirmed does not comprise a house or building which was comprised in the order as submitted to the Department, that right shall again be enforceable in relation to the house or other building not comprised in the order as confirmed.

SCHEDULE 5

STANDARD AMENITIES

PART I

LIST OF AMENITIES AND MAXIMUM ELIGIBLE AMOUNTS

<i>Description of Amenity</i>	<i>Maximum eligible amount</i>
	£
A fixed bath or shower	250
A hot and cold water supply at a fixed bath or shower	300
A wash-hand basin	100
A hot and cold water supply at a wash-hand basin	150
A sink	250
A hot and cold water supply at a sink	200
A water closet	350

PART II

PROVISIONS APPLICABLE TO CERTAIN AMENITIES

1. Except as provided in paragraph 2, a fixed bath or shower must be in a bathroom.
2. If it is not reasonably practicable for the fixed bath or shower to be in a bathroom but it is reasonably practicable for it to be provided with a hot and cold water supply it need not be in a bathroom but may be in any part of the house which is not a bedroom.
3. The water closet must, if reasonably practicable, be in, and accessible from within, the house or, where the house is part of a larger building, in such a position in that building as to be readily accessible from the house.

SCHEDULE 6

Article 87(3).

MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 87(3)

1. References to the Department shall be construed as references to the Department within the meaning of this Order.
2. For any reference to a council or the council or the clerk of the council substitute a reference to the Executive or the Chief Executive of the Executive.
3. For any reference to that Act substitute a reference to this Order.
4. Any references to that Schedule shall be construed as references to that Schedule as modified by this Schedule.
5. In paragraph 3(1)(b) for the words in brackets substitute the words "if the Department thinks it necessary to do so".
6. Paragraphs 19 and 20(2) shall be omitted.

SCHEDULE 7

Articles 92(2),
93(3) and 94(3).

ASCERTAINMENT OF AMOUNT TO BE PAID FOR WELL MAINTAINED HOUSES

1. Subject to paragraphs 2 and 3, the amount of any payment made in respect of a house under Article 92 or 93 shall be an amount equal to the net annual

Sch. 7 value of the house multiplied by 5 or such other multiplier as the Department may by order made subject to affirmative resolution specify.

2. The amount shall not in any case exceed the amount, if any, by which the compulsory purchase value of the house exceeds the site value thereof; and any question as to such value shall be determined, in default of agreement, as if it had been a question of disputed compensation arising on such a purchase.

3. Where a payment falls to be made in respect of any estate in the house under Article 97 no payment shall be made in respect of that house under this Schedule unless the other payment relates to part only of the house, and in that case such part only of the amount which would otherwise be payable in accordance with the preceding provisions of this paragraph shall be payable as may reasonably be attributed to the remainder of the house.

Article 122(3)

SCHEDULE 8

MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 122(3)

1. References to the Department or to the council shall be construed as references to the Department within the meaning of this Order.

1972 c.9

2. References to Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall be construed as references to that Schedule as modified by this Schedule.

3. Omit paragraph 1 of that Schedule.

4. In paragraph 2 of that Schedule—

(a) for the words “notice of application” substitute “notice of the Department’s intention to acquire the land compulsorily”;

(b) omit the words “in such form and manner as the Department directs”;

(c) in sub-paragraph (c) for the words “as may be prescribed” substitute the words “as the Department considers fit”.

5. In paragraph 3(1)(b) for the words in brackets substitute “if the Department thinks it necessary to do so”.

6. In paragraph 4 omit the words from “ and may provide” onwards.

7. In paragraph 5—

(a) in sub-paragraph (1)(a) omit the words “in the prescribed form and manner”;

(b) in sub-paragraph (1)(b) the two references to the said Act of 1972 shall be construed as references to this Order;

(c) in sub-paragraph (1)(d) omit the words “in the prescribed form”;

(d) in sub-paragraph (2) for the words “as may be prescribed” substitute the words “as the Department considers fit”.

8. In paragraph 6(2) for the words “fund out of which the expenses of the council in acquiring the land are to be defrayed” substitute the words “Consolidated Fund” and for the words “out of the Compensation Fund” there shall be substituted the words “made by the Department”.

9. In paragraph 11(3) omit the words “in the prescribed form”.

10. In paragraph 12— Sch. 8
 (a) in sub-paragraph (1) omit the words “such” and “as may be prescribed”;
 (b) in sub-paragraph (2) for the words from “clerk” to “directs” substitute the words “Department as correct, and publish”.
11. In paragraph 14(1) omit the words “in the prescribed form”.
12. In paragraph 15(1) for the words “in the prescribed form” substitute the words “in such form as may be approved by the Department”.
13. Omit paragraph 19.
14. Omit paragraph 20(2).

SCHEDULE 9

Article 123(1).

GRANT-AIDED LAND

1. For the purposes of Article 123 “grant-aided land” means land—
 (a) in respect of which such payment as is specified in paragraph 2 falls to be made in respect of a period ending after 10th November 1976; or
 (b) on which is or has been secured a loan which is of a description specified in paragraph 3 and in respect of which any repayment (whether by way of principal or interest or both) falls to be made after that date.
2. The payments referred to in paragraph 1(a) are contributions which became payable before 10th November 1976—
 (a) by way of exchequer contributions under section 1 of the Housing Act (Northern Ireland) 1945 as applied to housing associations by virtue of section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946; 1945 c.2
1946 c.4
 (b) by way of exchequer contributions under section 15 of the Housing Act (Northern Ireland) 1963 (contributions for hostels). 1963 c.26
3. The loans referred to in paragraph 1(b) are—
 (a) loans under section 14 of the Housing (Ireland) Act 1919, as applied to the Executive by virtue of section 3(1) of the Housing Executive Act (Northern Ireland) 1971 (powers of promoting and assisting public utility societies); and 1919 c.45
1971 c.5
 (b) loans under section 44 of the Housing Act (Northern Ireland) 1956 1956 c.10
 (power to make loans to certain associations).

SCHEDULE 10

Article 154(1).

INSTITUTIONS RECOGNISED FOR PURPOSES OF ARTICLE 153

PART I

LENDING INSTITUTIONS

1. Building societies designated under section 1 of the House Purchase and Housing Act 1959. 1959 c.33
2. District councils.
3. Trustee savings banks certified under the Trustee Savings Banks Act 1969 or earlier legislation. 1969 c.50

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4. The following bodies, namely—
- (a) companies which have satisfied the Department of Commerce that they ought to be treated as a banking company or as a discount company for the purpose of the Protection of Depositors Act (Northern Ireland) 1964, and
- 1964 c.22
1979 c.37
- (b) as from the coming into operation of section 3 of the Banking Act 1979, recognised banks within the meaning of that Act.
- 1974 c.49
5. Insurance companies to which Part II of the Insurance Companies Act 1974 applies.
6. Friendly societies and branches thereof if registered under the Friendly Societies Act (Northern Ireland) 1970 or under the Friendly Societies Act 1974.
- 1970 c.31
1974 c.46
7. The Northern Ireland Housing Executive.

PART II

SAVINGS INSTITUTIONS

8. Any of the recognised lending institutions specified in paragraphs 1, 3, 4 and 6.
9. The Director of Savings.
10. The Department of Finance.
11. The Post Office.
12. Any savings institution recognised for purposes of section 1 of the Home Purchase Assistance and Housing Corporation Guarantee Act 1978.
- 1978 c.27

Schedule 11—Amendments

Article 163(2).

SCHEDULE 12

SAVINGS AND TRANSITIONAL PROVISIONS

1. The repeal by this Order of sections 10, 11 and 16(4) to (6) of the Housing Executive Act (Northern Ireland) 1971 shall not affect prejudicially the rights of any person transferred to the employment of the Executive by that Act.
- 1971 c.5
- 2.—(1) The repeal by this Order of any statutory provision relating to any grant or contribution shall not affect any power or duty to act on any application or arrangements made or proposals approved before the date of the coming into operation of this Order, any power to reduce the rate at which any such grant or contribution is paid, any obligation to observe any condition falling to be observed in pursuance of any such statutory provision, any liability attaching to the breach of such a condition or any obligation to make a payment in consequence thereof, any power to vary the rate of interest on such a payment or the imposition of such a condition by such a statutory provision where a standard grant or improvement grant or reconditioning grant is paid by virtue of this paragraph.
- (2) Notwithstanding the revocation by this Order of the Housing (Improvement, Intermediate and Repairs Grants) Order (Northern Ireland) 1980—
- SR 1980/213
- (a) nothing in this Order shall affect any obligation of the Executive to pay an improvement, intermediate or repairs grant where it has approved an application for such a grant before 1st August 1980 as if the Housing

- (Improvement, Intermediate and Repairs Grants) Order (Northern Ireland) 1977 and the Housing (Improvement, Intermediate and Repairs Grants) Order (Northern Ireland) 1978 had not been revoked; SCH. 12
SR 1977/240
SR 1978/267
- (b) subject to head (c), this Order shall apply where the Executive has received an application for an improvement, intermediate or repairs grant before 1st August 1980 but approves, or has approved the application after that date;
- (c) where, before 1st August 1980, the Executive received an application for an improvement grant in respect of works for the improvement of a house the net annual value of which is less than £60, but approves, or has approved the application after that date the percentages specified in Part VI of the Housing (Northern Ireland) Order 1976 shall apply in relation to such a grant as if the percentages specified in Article 44(1) and (2) of that Order were 100 per cent. 1976 NI 25
- (3) In sub-paragraph (1) "reconditioning grant" means a grant under section 7 of the Housing on Farms Act (Northern Ireland) 1972. 1972 c.3
3. The repeal of Article 31 of the Housing (Northern Ireland) Order 1976 and Article 14 of the Housing Finance (Northern Ireland) Order 1977 shall not affect any power or duty of the Department under section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946 or section 15 of the Housing Act (Northern Ireland) 1963 to pay— 1977 NI 8
1946 c.4
1963 c.26
- (a) contributions to any housing association in respect of a housing scheme approved by the Department before 10th November 1976; or
- (b) any annual contributions which the Department may have determined to make before that date.
- 4.—(1) Notwithstanding the repeal by this Order of Article 15 of the Housing (Northern Ireland) Order 1978, a district council or, as the case may be, the Department shall not pay a grant under any of the following enactments, namely— 1978 NI 2
- (a) section 1 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946;
- (b) sections 6 and 15 of the Housing (No. 2) Act (Northern Ireland) 1946; and 1946 c.20
- (c) sections 1, 4 and 11 of the Housing on Farms Act (Northern Ireland) 1972;
- unless—
- (i) application for grant under those enactments was submitted on or before 31st March 1978, and
- (ii) the new house to which the application relates is completed on or before 31st March 1981.
- (2) In sub-paragraph (1)—
- "applications" include housing schemes and plans and specifications submitted for the approval of a district council;
- "completed", in relation to a new house provided in pursuance of a scheme under section 1(1) of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946, means "let"; and
- "grant" includes "contribution".
5. For the purpose of allowing an application for an improvement grant, an

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1971 c.3
1972 c.3

intermediate grant, or a repairs grant to be made notwithstanding that some of the works specified therein were specified in an application made before 10th November 1976 for an improvement grant or a standard grant under Part I of the Housing Act (Northern Ireland) 1971, or a grant under Part III of the Housing on Farms Act (Northern Ireland) 1972, the Executive, or, as the case may be, the Department shall allow that application to be withdrawn, whether or not it has been approved, unless it is satisfied that the works specified in the application have been begun.

1976 NI 25
1956 c.10

6. Notwithstanding the repeal of Article 1(3) of the Housing (Northern Ireland) Order 1976, the Housing (Miscellaneous Provisions) and Rent Restriction Law (Amendment) Act (Northern Ireland) 1956 may continue to be cited as the Housing Act (Northern Ireland) 1956 in any statutory provision, instrument or document.

Schedule 13—Repeals

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