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STATUTORY INSTRUMENTS

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1983 No. 1118 (N.I. 15)

**NORTHERN IRELAND**

**The Housing (Northern Ireland) Order 1983**

*Laid before Parliament in draft*

*Made*

*27th July 1983*

*Coming into Operation*

*28th September 1983*

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At the Court at Buckingham Palace, the 27th day of July 1983

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

## PART I

### INTRODUCTORY

#### *Title and commencement*

1. This Order may be cited as the Housing (Northern Ireland) Order 1983 and shall come into operation on the expiration of the period of two months from the date on which it is made.

#### *Interpretation*

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

(2) In this Order—

“the Department” means the Department of the Environment;

“the Executive” means the Northern Ireland Housing Executive;

“fee simple” includes a fee farm grant;

“mortgage” includes a charge;

“prescribe” means prescribe by regulations;

“the principal Order” means the Housing (Northern Ireland) Order 1981 (c).

## PART II

### SECURE TENANTS

#### CHAPTER I

#### THE RIGHT TO BUY

#### *Interpretation of Chapter I*

3.—(1) Except where otherwise provided, expressions used in this Chapter, which are also used in Chapter II, have the same meaning as in Chapter II.

(2) In this Chapter “secure tenancy” means a secure tenancy within the meaning of Article 25, but only where the landlord is the Executive.

(3) For the purposes of determining under paragraph (2) whether a person would have had a secure tenancy, in Article 25(2) the reference to the Executive shall be construed as including a reference to any statutory predecessor of the Executive.

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(a) 1974 c. 28. (b) 1954 c. 33 (N.I.). (c) S.I. 1981/156 (N.I. 3).

(4) In this Chapter—

“building society” means a building society within the meaning of the Building Societies Act 1962 (a) or the Building Societies Act (Northern Ireland) 1967 (b);

“district valuer” has the meaning given in Article 2(2) of the Rates (Northern Ireland) Order 1977 (c);

“lending institution” means any building society or any of the bodies specified in paragraphs 2 to 5 of Schedule 10 to the principal Order;

“purchase price” includes the consideration for the grant of a long lease;

“regular armed forces of the Crown” has the same meaning as in section 1 of the Northern Ireland Assembly Disqualification Act 1975 (d);

“the right to buy” means the right referred to in Article 4(1).

(5) The following provisions apply to the interpretation of “house”, “flat”, “dwelling-house” and “relevant time” when used in this Chapter.

(6) A dwelling-house is a house if, and only if, it (or so much of it as does not consist of land included by virtue of Article 24(2)) is a structure reasonably so called; so that—

(a) where a building is divided horizontally, the flats or other units into which it is divided are not houses; and

(b) where a building is divided vertically, the units into which it is divided may be houses; and

(c) where a building is not structurally detached it is not a house if a material part of it lies above or below the remainder of the structure.

(7) Any dwelling-house which is not a house is a flat.

(8) There shall be treated as included in the dwelling-house any land used for the purposes of the dwelling-house which the landlord and the tenant agree to include.

(9) The relevant time is the date on which the tenant’s notice claiming to exercise the right to buy is served; except that, if that notice is served within six months of the coming into operation of this Order, the relevant time is the date on which this Order is made.

#### *Right to buy*

4.—(1) A secure tenant has the right to buy, that is to say—

(a) if the dwelling-house is a house, to acquire the fee simple of the dwelling-house;

(b) if the dwelling-house is a flat, to be granted a long lease of the dwelling-house;

in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Chapter.

(2) The right to buy only arises after the tenant has been a secure tenant for a period of not less than three years or for periods amounting together to not less than three years; but neither the dwelling-house nor the landlord need have been the same during the whole of that period.

(3) In determining whether the condition in paragraph (2) is satisfied a

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(a) 1962 c. 37. (b) 1967 c. 31 (N.I.).  
(c) S.I. 1977/2157 (N.I. 28). (d) 1975 c. 25.

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person who, as a joint tenant under a secure tenancy, occupied a dwelling-house as his only or principal home shall be treated as the secure tenant under that tenancy; and where the secure tenancy is a joint tenancy that condition need be satisfied with respect to only one of the joint tenants.

(4) Where the secure tenant became a secure tenant on the death of his spouse, and at the time of the death they occupied the same dwelling-house as their only or principal home, any period during which the deceased spouse was a secure tenant is to be counted for the purposes of paragraph (2).

(5) In determining whether the condition in paragraph (2) is satisfied in the case of a person who is, or of persons one of whom is, a previous purchaser, a period counts as a period during which the previous purchaser or his spouse was a secure tenant only if it fell after the completion of the previous purchase or, if more than one, the last of them.

(6) In paragraph (5) "previous purchaser" means a person who has exercised—

(a) the right to buy;

(b) the right to buy conferred by Chapter I of Part I of the Housing Act 1980 (a); or

(c) the right to purchase conferred by Part I of the Tenants' Rights, Etc. (Scotland) Act 1980 (b),

on a previous occasion whether he has exercised it alone or jointly with another person.

(7) Paragraphs (2) to (5) shall have effect as if—

(a) the references to a secure tenancy included any tenancy to which paragraph (8) applies, and

(b) the references to a secure tenant included the tenant under such a tenancy;

and any period during which a person or his spouse occupied accommodation provided for him or his spouse as a member of the regular armed forces of the Crown shall be treated as a period spent as a secure tenant.

(8) This paragraph applies to—

(a) any tenancy which was a secure tenancy, within the meaning of the Housing Act 1980, under which the right to buy arose or might have arisen;

(b) any tenancy which would have been a secure tenancy in the circumstances described under sub-paragraph (a) if Chapter II of Part I of the Housing Act 1980 had been in force and the bodies mentioned in section 28(2) of that Act had included the predecessor of any such body;

(c) any tenancy which was a secure tenancy within the meaning of the Tenants' Rights, Etc. (Scotland) Act 1980 and under which the tenant's right to purchase was exercisable or might have become exercisable;

(d) any tenancy which would have been a secure tenancy in the circumstances described under sub-paragraph (c) if Part II of the Tenants' Rights, Etc. (Scotland) Act 1980 had been in force and the bodies mentioned in section 10(2) of that Act had included the predecessor of any such body.

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(a) 1980 c. 51. (b) 1980 c. 52.



*Exceptions to right to buy*

5.—(1) The right to buy does not arise unless the Executive is the fee simple owner of the dwelling-house.

(2) The right to buy—

(a) does not arise in any of the circumstances mentioned in Part I of Schedule 1, and

(b) cannot be exercised in any of the circumstances mentioned in Part II of that Schedule.

*Joint tenants and members of family occupying dwelling-house otherwise than as joint tenants*

6.—(1) Where a secure tenancy is a joint tenancy then, whether or not each of the joint tenants occupies the dwelling-house as his only or principal home, the right to buy belongs jointly to all of them or to such one or more of them as may be validly agreed between them; and the agreement is not valid unless the person or at least one of the persons to whom the right to buy is to belong occupies the dwelling-house as his only or principal home.

(2) A secure tenant may, in his notice under Article 7 claiming to exercise the right to buy, require that not more than three members of his family who are not joint tenants but occupy the dwelling-house as their only or principal home should share the right to buy with him; but he may validly do so in the case of any such member only if—

(a) that member is his spouse or has been residing with him throughout the period of six months ending with the giving of the notice; or

(b) the Executive consents.

(3) Where by such a notice any members of the tenant's family are validly required to share the right to buy with the tenant, that right belongs to the tenant and those members jointly and he and they shall be treated for the purposes of this Chapter as joint tenants.

*Notice claiming exercise of right to buy*

7.—(1) Where a secure tenant serves on the Executive a written notice claiming to exercise the right to buy, the Executive shall (unless the notice is withdrawn) serve on the tenant, within four weeks, or in a case falling within paragraph (2), eight weeks, either—

(a) a written notice admitting the tenant's right; or

(b) a written notice denying the tenant's right and stating the reasons why, in the opinion of the Executive, the tenant does not have the right to buy.

(2) A case falls within this paragraph if the periods counting towards the three years required by Article 4(2) include—

(a) any period during which the tenant held a tenancy to which paragraph (8) of Article 4 applies; or

(b) any period during which a person or his spouse occupied accommodation provided for him or his spouse as a member of the regular armed forces of the Crown.

(3) A tenant's notice under paragraph (1) may be withdrawn at any time by notice in writing served on the Executive.

*Purchase price*

8.—(1) The price payable for a dwelling-house on a conveyance or grant in pursuance of this Chapter is—

- (a) the amount which, under this Article, is to be taken as its value at the relevant time; less
- (b) the discount to which the purchaser is entitled under this Chapter.

(2) The value of a dwelling-house at the relevant time shall be taken to be the price which, at that time, it would realise if sold on the open market by a willing vendor on the assumptions stated, for a conveyance, in paragraph (3) and, for a grant, in paragraph (4), and disregarding any improvements made by any of the persons specified in paragraph (5) and any failure by any of those persons to keep the dwelling-house in good internal repair.

(3) For a conveyance the assumptions are that—

- (a) the vendor was selling for an estate in fee simple with vacant possession;
- (b) neither the tenant nor a member of his family residing with him wanted to buy; and
- (c) the dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Chapter.

(4) For the grant of a lease the assumptions are that—

- (a) the vendor was granting a lease for 125 years with vacant possession (subject to Article 17(2));
- (b) neither the tenant nor a member of his family residing with him wanted to take the lease;
- (c) the ground rent would not exceed £10 per annum; and
- (d) the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Chapter.

(5) The persons specified for the purposes of paragraph (2) are—

- (a) the secure tenant;
- (b) any person who under the same tenancy was a secure tenant before him; and
- (c) any member of his family who, immediately before the secure tenancy was granted, was a secure tenant of the same dwelling-house under another tenancy.

*Discount*

9.—(1) A person exercising the right to buy is entitled to a discount equal, subject to the following provisions of this Article, to the following percentage of the price before discount, that is to say—

- (a) if the period to be taken into account under paragraph (4) is less than four years, 33 per cent.; and
- (b) if that period is four years or more, 33 per cent. plus one per cent. for each complete year by which that period exceeds three years, but not together exceeding 50 per cent.

(2) The discount shall not reduce the price below the amount which, in accordance with any determination made by the Department, is to be taken as representing so much of the costs incurred in respect of the dwelling-house as,

in accordance with the determination, is to be treated as incurred after 30th September 1973 (or such later date as the Department may by order specify) and as relevant for the purposes of this paragraph; and if the price before discount is below that amount, there shall be no discount.

(3) The discount shall not in any case reduce the price by more than such sum as the Department may by order specify.

(4) The period to be taken into account for the purposes of the discount is, subject to the following provisions of this Article, the aggregate of the period during which, before the service of the notice claiming to exercise the right to buy, the secure tenant or his spouse or deceased spouse was either a secure tenant or the spouse of a secure tenant.

(5) A period shall be taken into account under paragraph (4) whether or not the dwelling-house or the landlord was the same as at the time of the service of the notice claiming to exercise the right to buy; but—

(a) no period during which the tenant's spouse was a secure tenant or the spouse of a secure tenant shall be so taken into account unless both the secure tenant and his spouse occupied the dwelling-house as their only or principal home at the time of the service of the notice; and

(b) no period during which the tenant's deceased spouse was a secure tenant or the spouse of a secure tenant shall be so taken into account unless the tenant became the secure tenant on the death of his spouse and at the time of the death both occupied the dwelling-house as their only or principal home; and

(c) a period during which either the tenant or his spouse or deceased spouse was the spouse of a secure tenant shall be taken into account only if during that period the spouses occupied the same dwelling-house as their only or principal home.

(6) For the purposes of paragraphs (4) and (5) a person who, as a joint tenant under a secure tenancy, occupied a dwelling-house as his only or principal home shall be treated as the secure tenant under that tenancy; and where the right to buy is exercised by joint tenants those paragraphs shall be construed as if for the secure tenant there were substituted that one of the joint tenants whose substitution will produce the largest discount.

(7) Where the person or one of the persons exercising the right to buy, or the spouse or deceased spouse of that person or of any of those persons, is or was a previous purchaser, a period shall be taken into account as a period during which the previous purchaser was, or was the spouse of, a secure tenant only if it falls after the completion of the previous purchase or, if more than one, the last of them.

(8) Paragraphs (7) and (8) of Article 4 shall apply in relation to paragraphs (4) to (7) in the same manner as they apply for the purposes of that Article.

(9) In paragraph (7) "previous purchaser" has the meaning given in Article 4(6).

*Repayment of discount on early disposal of fee simple or lease*

10.—(1) A conveyance of the fee simple or grant of a lease in pursuance of this Chapter shall (unless there is no discount) contain a covenant binding on the secure tenant and his successors in title to pay to the Executive on demand the amount specified in paragraph (2) if, within a period of five years, there is a disposal falling within paragraph (3); but if there is more than one such disposal, then only on the first of them.

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(2) The amount payable under the covenant is an amount equal to the discount to which the secure tenant was entitled, but reduced by 20 per cent. of that discount for each complete year which elapses after the conveyance or grant and before the disposal.

(3) A disposal falls within this paragraph if it is—

- (a) a further conveyance of the fee simple or an assignment of the lease; or
- (b) the grant of a lease or sub-lease for a term of more than twenty-one years otherwise than at a rack rent;

whether the disposal is of the whole or part of the dwelling-house; but a disposal in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 (a) or under Article 4 of the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979 (b) or a vesting in a person taking under a will or on an intestacy is not a disposal falling within this paragraph.

(4) Subject to paragraph (5), the liability that may arise under the covenant required by paragraph (1) shall be a charge on the dwelling-house—

(a) in respect of which the Executive shall have all the rights and powers of a mortgagee under a mortgage by deed within the meaning of the Conveyancing Acts 1881 to 1892, including the power to sell the estate which is subject to the charge; and

(b) having priority immediately after any mortgage securing any amount left outstanding by the tenant in exercising the right to buy or advanced to him by a lending institution for the purpose of enabling him to exercise it or further advanced to him by that lending institution.

(5) The Executive may at any time by written notice served on a lending institution postpone the charge taking effect by virtue of paragraph (4) to any legal charge securing any amount advanced, or further advanced, by that institution.

(6) In paragraph (3) the reference to a lease or sub-lease does not include—

- (a) a mortgage term; or
- (b) a lease for life or lives or for any term of years determinable with life or lives, not being a lease in perpetuity within the meaning of section 1 of the Renewable Leasehold Conversion Act 1849 (c), or a lease to which section 37 of that Act applies.

(7) For the purposes of this Article the grant of an option enabling a person to call for a disposal falling within paragraph (3) shall be treated as such a disposal.

*Notice of purchase price, etc.*

11.—(1) Where a secure tenant has claimed to exercise the right to buy and that right has been established (whether by the Executive's admission or otherwise) the Executive shall, as soon as practicable, serve on the tenant a notice describing the dwelling-house and stating—

- (a) the price at which, in the opinion of the Executive, the tenant is entitled to have the fee simple conveyed or, as the case may be, the long lease granted to him; and
- (b) the provisions, including any conditions and covenants approved or specified by the Department under Article 18, which, in the opinion of the Executive, should be contained in the conveyance or grant.

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(a) S.I. 1978/1045 (N.I. 15).

(b) S.I. 1979/924 (N.I. 8).

(c) 1849 c. 105.

(2) The notice shall, for the purpose of showing how the price has been arrived at, state—

- (a) the value at the relevant time;
  - (b) the discount to which the tenant is entitled, stating—
    - (i) the period to be taken into account under Article 9(4); and, where applicable,
    - (ii) the amount mentioned in Article 9(2) or (3); and
  - (c) the improvements disregarded in pursuance of Article 8.
- (3) The notice shall also inform the tenant—
- (a) of his right under Article 12 to have the value at the relevant time re-determined by the district valuer; and
  - (b) of the effect of Articles 13, 14 and 17(3) to (5).

*Right of tenant to have value re-determined by district valuer*

12.—(1) Any question arising under this Chapter as to the value of a dwelling-house at the relevant time shall be determined by the district valuer in accordance with this Article.

(2) A tenant may require that value to be re-determined by a notice in writing served on the Executive not later than three months from the service on him of the notice under Article 11; except that—

- (a) if proceedings are then pending between the Executive and the tenant for the determination of any other question arising under this Chapter, the notice may be served at any time within three months from the final determination of the proceedings, and
- (b) if such proceedings are begun after a previous re-determination under this Article the notice may be served within four weeks from the final determination of the proceedings and, whether or not such a notice is served, the Executive may at any time within those four weeks require the district valuer to re-determine further the value of the dwelling-house at the relevant time.

(3) Where the Executive requires a further re-determination to be made in pursuance of paragraph (2)(b) it shall serve on the tenant a notice stating that the requirement is being or has been made.

(4) Before making a re-determination in pursuance of this Article the district valuer shall consider any representation made to him by the Executive or the tenant within four weeks from the service of the tenant's notice under this Article or, as the case may be, from the service of the Executive's notice under paragraph (3).

(5) As soon as practicable after a re-determination has been made in pursuance of this Article the Executive shall serve on the tenant a notice stating the effect of the re-determination and the matters mentioned in paragraphs (1) and (2) of Article 11.

(6) A notice under paragraph (5) shall inform the tenant of the effect of Articles 13, 14 and 17(3) to (5).

*Mortgages*

13.—(1) Where—

- (a) a secure tenant has claimed to exercise the right to buy and that right has been established; but

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(b) he is unable to obtain from a lending institution a loan sufficient to assist him with the purchase of the dwelling-house,  
he shall be entitled to leave outstanding on the security of a first mortgage of the dwelling-house to the Executive an amount of the purchase price determined according to the limits set out in paragraph (2).

(2) The amount mentioned in paragraph (1) is subject to the following limits, namely—

(a) that, subject to paragraph (3), it does not exceed the amount to be taken into account, in accordance with regulations made by the Department under this Article, as the tenant's available annual income multiplied by such factor as, under the regulations, is appropriate to that income; and

(b) that it does not, in any case, exceed the amount of the purchase price.

(3) Where, by virtue of Article 6, any person is treated as a joint tenant of the dwelling-house—

(a) paragraph (1) shall apply to that person in the same manner as it applies to the secure tenant; and

(b) the limit referred to in paragraph (2)(a) is the aggregate of the amounts to be taken into account in accordance with the regulations as the available annual income of each joint tenant, after multiplying each of those amounts by the factor appropriate to it under the regulations.

(4) The Department may by regulations make provision for calculating the amount which is to be taken into account under this Article as a person's available annual income and for specifying a factor appropriate to it; and the regulations may provide for arriving at a person's available annual income by deducting from the sums taken into account as his annual income sums related to his needs and commitments, and may exclude sums from those to be taken into account as a person's annual income.

*Application for mortgage*

14.—(1) An application for a mortgage to which a secure tenant is entitled under Article 13 (1)—

(a) shall be in such form as the Department may prescribe, and shall state—

(i) the amount of the purchase price which the applicant seeks to leave outstanding,

(ii) the applicant's annual gross income and his net income after payment of income tax and national insurance contributions,

(iii) any liabilities in respect of credit sales or other fixed outgoings of the applicant, and

(iv) that the applicant has applied for and been unable to obtain a sufficient loan from a lending institution; and

(b) shall be accompanied by evidence of the matters referred to in paragraphs (ii), (iii) and (iv) of sub-paragraph (a).

(2) An application for a mortgage shall not be entertained by the Executive unless it is made within three months beginning with the service on the tenant of the relevant notice, or within that period as extended under paragraph (3).

(3) Where there are reasonable grounds for doing so, the Executive shall by notice in writing served on the tenant extend (or further extend) the period

within which the tenant's application for a mortgage may be made; and if it fails to do so the county court may by order extend or further extend that period until such date as may be specified in the order.

(4) The relevant notice is—

(a) if the tenant exercises his right under Article 12, the notice served under paragraph (5) of that Article; and

(b) if he does not exercise that right, the notice served under Article 11.

(5) As soon as practicable after the service on it of an application under paragraph (1) the Executive shall serve on the tenant a notice in writing stating—

(a) the amount which, in the opinion of the Executive, the tenant is entitled to leave outstanding on the security of the dwelling-house;

(b) how that amount has been arrived at; and

(c) the provisions which, in the opinion of the Executive, should be contained in the deed by which the mortgage is to be effected.

(6) The notice shall also inform the tenant of the effect of Article 17(9) and shall be accompanied by a form for use by the tenant in claiming, in accordance with Article 17(5)(c), to be entitled to defer completion.

*Change of secure tenant after notice claiming right to buy*

15.—(1) Where, after a secure tenant (in this Article referred to as “the former tenant”) has given a notice claiming the right to buy, another person (in this Article referred to as “the new tenant”) becomes the secure tenant under the same secure tenancy, the new tenant shall be in the same position as if the notice had been given by him and he had been the secure tenant at the time it was given.

(2) If a notice under Article 11 has been served on the former tenant—

(a) the Executive shall serve on the new tenant a notice informing him of the right to buy and of the effect of Articles 13, 14 and 17(3) to (5); and

(b) the new tenant may, within the period of three months beginning with the date of service of the notice on him or within that period as extended under paragraph (3), apply for a mortgage in accordance with Articles 13 and 14.

(3) Where there are reasonable grounds for doing so the Executive shall by notice in writing served on the new tenant extend (or further extend) the period within which his application for a mortgage may be made, and if it fails to do so the county court may extend or further extend that period until such date as may be specified in the order.

(4) Paragraphs (1) to (3) do not confer any right on a person required in pursuance of Article 6(2) to share the right to buy unless he could have been validly so required had the notice claiming to exercise the right to buy been given by the new tenant.

(5) The preceding provisions of this Article apply with the necessary modifications if there is a further change in the person who is the secure tenant.

*Children succeeding parents*

16.—(1) Where—

(a) the secure tenant of a dwelling-house (in this Article referred to as “the former tenant”) dies or otherwise ceases to be a secure tenant of the dwelling-house; and

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- (b) thereupon a child of his who occupies the dwelling-house as his only or principal home (in this Article referred to as "the new tenant") becomes the secure tenant of the dwelling-house (whether under the same or under another secure tenancy);

the Executive shall count the whole or part of any period qualifying under this Article for the purposes of Article 4 (2) and towards the period to be taken into account under Article 9 (4) for the purposes of discount.

(2) A period qualifies under this Article if it is a period during which the new tenant, since reaching the age of sixteen, occupied as his only or principal home a dwelling-house of which a parent of his was the secure tenant or one of joint tenants under a secure tenancy, and either—

- (a) it was the period at the end of which he became the secure tenant; or  
(b) it was a period ending not earlier than two years before another period qualifying under this Article.

(3) For the purposes of this Article two persons shall be treated as parent and child if they would be so treated under Article 24(3).

(4) This Article has effect, whether or not the former tenant and the new tenant are also the former tenant and the new tenant within the meaning of Article 15.

***Completion***

17.—(1) Where a secure tenant has claimed to exercise the right to buy and that right has been established, the Executive shall be bound, subject to the following provisions of this Article, to make to the tenant—

- (a) if the dwelling-house is a house, a grant of the dwelling-house for an estate in fee simple; and  
(b) if the dwelling-house is a flat, a grant of a lease of the dwelling-house for a term of not less than 125 years (subject to paragraph (2));

as soon as all matters relating to the grant and to the amount to be left outstanding on the security of the dwelling-house have been agreed or determined.

(2) If a building contains two or more dwelling-houses and the Executive has, since the coming into operation of this Order, granted a lease of one of them for a term of not less than 125 years, any lease granted in pursuance of this Chapter of the other or one of the others may be for a term expiring at the end of that term and, if it is for such a term, the assumption stated in Article 8(4)(a) shall be modified accordingly.

(3) If, after all those matters have been agreed or determined, the tenant does not take all steps necessary to complete the transaction, the Executive may serve on him a notice informing him of the effect of paragraph (7) and requiring him to complete the transaction within a period stated in the notice; and the period so stated shall be such period (not being less than fifty-six days) as may be reasonable in the circumstances.

(4) A notice under paragraph (3) shall not be served earlier than whichever of the following is applicable, that is to say—

- (a) if the tenant has not applied for a mortgage under Article 14, three months after the end of the period within which an application could have been made by him;



- (b) if he has applied for a mortgage under Article 14, but is not entitled to defer completion, three months after the service of the notice under Article 14(5); and
- (c) if he is entitled to defer completion, two years after the service of his notice under Article 7 claiming the exercise of the right to buy or, if later, three months after the service of the notice under Article 14(5).

(5) A tenant is entitled to defer completion if—

- (a) he has applied for a mortgage under Article 14; and
- (b) the amount which he is entitled, or is treated as being entitled, to leave outstanding on the security of the dwelling-house is less than the purchase price; and
- (c) he has, within the period of three months beginning with the service on him of the notice under Article 14(5) or within that period as extended under paragraph (6), served a notice on the Executive claiming to be entitled to defer completion and has, within the same period, deposited the sum of £100 with the Executive.

(6) Where there are reasonable grounds for doing so the Executive shall extend (or further extend) the period within which a notice under paragraph (5)(c) must be served and the sum of £100 deposited; and if it fails to do so the county court may by order extend or further extend that period until such date as may be specified in the order.

(7) If the tenant does not comply with the notice under paragraph (3), the notice claiming to exercise the right to buy shall be deemed to have been withdrawn at the end of the period stated in the notice under that paragraph.

(8) If, in pursuance of a notice under paragraph (5)(c), the tenant deposits the sum of £100 with the Executive, then—

- (a) if he completes the transaction, that sum shall be treated as having been paid towards the purchase price; and
- (b) if he does not complete the transaction but withdraws his notice claiming to exercise the right to buy or is, by virtue of paragraph (7), deemed to have withdrawn it, the sum deposited shall be returned to him.

(9) A tenant who is entitled to defer completion may, at any time before the service on him of a notice under paragraph (3), make a further application for a mortgage under Article 14 and, if he does so, paragraph (5) of that Article shall then apply accordingly.

(10) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, then, while the whole or part of it remains outstanding—

- (a) the Executive shall not be bound to complete; and
- (b) if a notice under paragraph (3) has been served on the tenant, the tenant shall be deemed not to comply with the notice.

(11) The duty imposed on the Executive by paragraph (1) shall be enforceable by injunction.

(12) On the grant to a secure tenant of an estate in fee simple or of a lease in pursuance of this Chapter the secure tenancy of the dwelling-house shall come to an end and, if there is then a sub-tenancy, section 9 of the Real Property Act 1845 (a) shall apply as on a merger or surrender.

*Conveyance of fee simple and grant of lease*

18.—(1) This Article applies with respect to the conditions and covenants to be contained in a conveyance of a fee simple under paragraph (1) (a) of Article 17 or a grant of a lease under paragraph (1) (b) of that Article.

(2) The Executive—

(a) may include in a conveyance or lease to which this Article applies such conditions and covenants as the Department may approve; and

(b) shall include in such a conveyance or lease any conditions or covenants which the Department may specify.

(3) Without prejudice to the generality of paragraph (2), the conditions and covenants—

(a) shall have the effect of ensuring that the tenant has as full enjoyment and use of the dwelling-house as owner as he has had as tenant;

(b) shall secure to the tenant such additional rights as are necessary for his reasonable enjoyment and use of the dwelling-house as owner (including, without prejudice to the foregoing generality, common rights in any part of the building of which the dwelling-house forms part) and shall impose on the tenant any necessary duties relative to rights so secured;

(c) shall include such terms as are necessary to entitle the tenant to receive a good and marketable title to the dwelling-house;

(d) shall, where a new charge for the provision of a service in relation to the dwelling-house is imposed or where an existing charge for such provision is increased, provide for the charge to be in reasonable proportion to the cost to the Executive of providing the service.

*Terms of mortgage deed*

19. The deed by which a mortgage, to which a secure tenant is entitled under Article 13 (1), is effected shall, unless otherwise agreed between the parties, conform with the following provisions—

(a) it shall provide for repayment of the amount secured in equal instalments of principal and interest combined;

(b) the period over which repayment is to be made shall be 25 years or, at the option of the mortgagor, a shorter period, but shall be capable of being extended by the mortgagee; and

(c) it may contain such other terms as may be agreed between the mortgagor and the mortgagee or, in default of agreement, as may be determined by the county court to be reasonably required by the mortgagor or the mortgagee;

but the Department may by order specify additional terms to be contained in any such deed or vary the provisions of sub-paragraphs (a) and (b), but only in relation to deeds executed after the order comes into force.

*Costs*

20.—(1) Any agreement between a tenant exercising the right to buy and the Executive shall be void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the Executive in connection with the tenant's exercise of that right, other than costs chargeable to the tenant under paragraph (2).

(2) Where the tenant exercising the right to buy also obtains from the Executive a mortgage, the Executive may charge him the costs incurred by it in connection with his application for a mortgage, but only to the extent that those costs do not exceed such amount as the Department may by order specify.

*Notices*

21. The Department may prescribe the form of any notice under this Chapter and the particulars to be contained in any such notice.

*Duty of the Executive*

22.—(1) The Executive shall make provision for dealing with notices and applications under this Chapter in such manner as may be necessary to enable any tenant who wishes to exercise his rights under this Chapter to do so and to comply with any directions made by the Department in that regard.

(2) Nothing in paragraph (1) shall affect the operation of any other statutory provision relating to the enforcement of a statutory duty whether under that provision or otherwise.

*Statutory declarations*

23. The Executive may, if it thinks fit, accept any statutory declaration made for the purposes of this Chapter as sufficient evidence of the matters declared in it.

CHAPTER II

SECURITY OF TENURE AND RIGHTS OF SECURE TENANTS

*Interpretation of Chapter II*

24.—(1) In this Chapter—

“improvement” has the meaning given by Article 34(3);

“landlord” has the meaning given by Article 25(2);

“registered housing association” does not include any such association whose rules—

(a) restrict membership to persons who are tenants or prospective tenants of the association, and

(b) preclude the granting or assignment of tenancies to persons other than tenants;

“rental period” means a period in respect of which a payment of rent falls to be made;

“secure tenant” means the tenant under a secure tenancy, and

“secure tenancy” has the meaning given in Article 25;

“successor” has the meaning given by paragraphs (4) and (5) of Article 26;

“term”, in relation to a secure tenancy, includes a condition of the tenancy.

- (2) For the purposes of this Chapter—
- (a) a dwelling-house may be a house or part of a house;
  - (b) land let together with a dwelling-house shall be treated as part of the dwelling-house unless the land is agricultural land exceeding two acres;
- and in this paragraph “agricultural land” has the meaning set out in paragraph 1(a) of Schedule 1 to the Rates (Northern Ireland) Order 1977.
- (3) A person is a member of another’s family within the meaning of this Chapter if he is his spouse, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece; treating—
- (a) any relationship by marriage as a relationship by blood, any relationship of the half blood as a relationship of the whole blood and the stepchild of any person as his child; and
  - (b) an illegitimate person as the legitimate child of his mother and reputed father;
- or if they live together as husband and wife.

#### *Secure tenancies*

##### *Secure tenancies*

25.—(1) A tenancy under which a dwelling-house is let as a separate dwelling is a secure tenancy at any time when the conditions described below as the landlord condition and the tenant condition are satisfied, but subject to the exceptions in Schedule 2.

- (2) The landlord condition is that the estate of the landlord belongs to—
- (a) the Executive; or
  - (b) a registered housing association;
- and in this Chapter references to the landlord mean any body which fulfils the landlord condition.

(3) The tenant condition is that the tenant is an individual and occupies the dwelling-house as his only or principal home; or, where the tenancy is a joint tenancy, that each of the joint tenants is an individual and at least one of them occupies the dwelling-house as his only or principal home.

##### *Succession on death of tenant*

26.—(1) Where on the death of the tenant under a secure tenancy there is a person qualified to succeed him, the tenancy vests by virtue of this Article in that person or, if there is more than one such person, in the one who is to be preferred in accordance with paragraph (3), unless the tenant was a successor.

- (2) A person is qualified to succeed the tenant under a secure tenancy if he occupied the dwelling-house as his only or principal home at the time of the tenant’s death and either—
- (a) he is the tenant’s spouse; or
  - (b) he is another member of the tenant’s family and has resided with the tenant throughout the period of twelve months ending with the tenant’s death.

- (3) Where there is more than one person qualified to succeed the tenant—
- (a) the tenant's spouse is to be preferred to another member of the tenant's family; and
  - (b) of two or more other members of the tenant's family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.
- (4) The tenant under a secure tenancy is a successor if—
- (a) the tenancy vested in him by virtue of paragraph (1); or
  - (b) he was a joint tenant and has become the sole tenant; or
  - (c) he became the tenant on the tenancy being assigned to him or on its being vested in him on the death of the previous tenant;

but a tenant to whom the tenancy was assigned in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 is a successor only if the other party to the marriage was himself a successor.

(5) Where within six months of the coming to an end of a secure tenancy (in this paragraph referred to as the former tenancy) the tenant becomes a tenant under another secure tenancy; and—

- (a) the tenant was a successor in relation to the former tenancy; and
- (b) under the other tenancy either the dwelling-house or the landlord is or both are the same as under the former tenancy;

the tenant is a successor also in relation to the other tenancy, unless the agreement creating the other tenancy otherwise provides.

#### *Security of tenure*

27.—(1) Subject to Articles 41 and 42, a secure tenancy cannot be brought to an end by the landlord except by obtaining an order of the court for the possession of the dwelling-house.

(2) Where the landlord obtains an order of the court for the possession of the dwelling-house the tenancy ends on the date on which the tenant is to give up possession in pursuance of the order.

(3) Where a tenant of a dwelling-house let under a secure tenancy wishes to terminate the tenancy he must—

- (a) notify the landlord of his intention to do so; and
- (b) specify a date, not being a date less than four weeks from the date of notification, on which the tenancy is to terminate.

#### *Proceedings for possession*

28.—(1) The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy, unless the landlord has served on the tenant a notice complying with the provisions of this Article, and—

- (a) the proceedings are begun after the date specified in the notice; and
- (b) the notice is still in force at the time the proceedings are begun.

(2) A notice under paragraph (1)—

- (a) must be in a form prescribed by the Department;
- (b) must specify the ground on which the court will be asked to make an order for the possession of the dwelling-house and give particulars of that ground;

(c) must also specify a date after which proceedings for the possession of the dwelling-house may be begun; and

(d) ceases to be in force twelve months after the date specified in it.

(3) The date specified in the notice must not be earlier than the date on which the tenancy could, apart from this Order, be brought to an end by notice to quit given by the landlord if the notice to quit were given on the same date as the notice under this Article.

#### *Grounds and orders for possession*

29.—(1) The court shall not make an order for the possession of a dwelling-house let under a secure tenancy except on one or more of the grounds set out in Part I of Schedule 3 and shall not make such an order on any of those grounds unless the ground is specified in the notice in pursuance of which proceedings for possession are begun; but the grounds so specified may be altered or added to with the leave of the court.

(2) The court shall not make the order—

(a) on any of grounds 1 to 6, unless the condition in paragraph (3)(a) is satisfied;

(b) on ground 7, unless the condition in paragraph (3)(b) is satisfied; and

(c) on any of grounds 8 to 11, unless both those conditions are satisfied.

(3) The conditions are—

(a) that the court considers it reasonable to make the order; and

(b) that the court is satisfied that suitable accommodation will be available for the tenant when the order takes effect.

(4) Part II of Schedule 3 has effect for determining whether suitable accommodation will be available for a tenant.

#### *Terms of a secure tenancy*

#### *Subletting and lodgers*

30.—(1) It is by virtue of this Article a term of every secure tenancy that the tenant may allow any persons to reside as lodgers in the dwelling-house.

(2) It is by virtue of this Article a term of every secure tenancy that the tenant will not, without the written consent of the landlord, sublet or part with the possession of part of the dwelling-house.

(3) The consent required by virtue of this Article is not to be unreasonably withheld and, if unreasonably withheld, shall be treated as given.

(4) An application for the landlord's consent required by virtue of paragraph (2) shall be in writing.

#### *Provisions as to consents required by Article 30*

31.—(1) If any question arises whether the withholding of a consent was unreasonable it is for the landlord to show that it was not; and in determining that question the following matters, if shown by the landlord, are among those to be taken into account, namely—

(a) that the consent would lead to overcrowding of the dwelling-house; and

(b) that the landlord proposes to carry out works on the dwelling-house or on the building of which it forms part and that the proposed works will

affect the accommodation likely to be used by the sub-tenant who would reside in the dwelling-house as a result of the consent.

(2) A consent may be validly given notwithstanding that it follows, rather than precedes, the action requiring it.

(3) A consent cannot be given subject to a condition, and if purporting to be given subject to a condition shall be treated as given unconditionally.

(4) Where the tenant has applied for a consent then—

(a) if the landlord refuses to give the consent it shall give to the tenant a written statement of the reasons why the consent was refused; and

(b) if the landlord neither gives nor refuses to give the consent within a reasonable time the consent shall be taken to have been withheld.

(5) In this Article a "consent" means a consent which is required by virtue of Article 30.

#### *Assignments*

32.—(1) A secure tenancy, or a tenancy to which paragraph (2) applies, shall not be capable of being assigned unless—

(a) the assignment is made in pursuance of an order made under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978; or

(b) the assignment is to a person in whom the tenancy would or might have been vested by virtue of Article 26 had the tenant died immediately before the assignment.

(2) This paragraph applies to any tenancy which would be a secure tenancy if the condition described in Article 25(3) as the tenant condition were satisfied.

#### *Other disposals*

33.—(1) If the tenant under a secure tenancy parts with the possession of the dwelling-house or sublets the whole of it (or sublets part and then the remainder) the tenancy ceases to be a secure tenancy.

(2) Where, on the death of the tenant, a secure tenancy is vested or otherwise disposed of in the course of the administration of his estate, the tenancy ceases to be a secure tenancy unless—

(a) the vesting or other disposal is in pursuance of an order made under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978; or

(b) the vesting or other disposal is to a person in whom the tenancy would or might have vested by virtue of Article 26.

(3) Where—

(a) a tenancy ceases to be a secure tenancy by virtue of this Article; or

(b) in the case of a tenancy which would be a secure tenancy if the condition described in Article 25(3) as the tenant condition were satisfied, the tenant parts with the possession of the dwelling-house or sublets the whole of it (or sublets first part of it and then the remainder),

the tenancy cannot become a secure tenancy.

#### *Tenant's improvements*

34.—(1) It is by virtue of this Article a term of every secure tenancy that

the tenant will not make any improvement without the written consent of the landlord.

(2) An application for the consent required by virtue of paragraph (1) shall be in writing and such consent—

- (a) is not to be unreasonably withheld; and
- (b) if unreasonably withheld, shall be treated as given.

(3) In this Chapter “improvement” means any alteration in, or addition to, a dwelling-house and includes—

- (a) any addition to, or alteration in, landlord’s fixtures and fittings and any addition or alteration connected with the provision of any services to a dwelling-house; and
- (b) the carrying out of external decoration.

(4) If any question arises whether the withholding of a consent required by virtue of paragraph (1) was unreasonable it is for the landlord to show that it was not; and in determining that question the court shall, in particular, have regard to the extent to which the improvement would be likely—

- (a) to make the dwelling-house, or any other premises, less safe for occupiers;
- (b) to cause the landlord to incur expenditure which it would be unlikely to incur if the improvement were not made; or
- (c) to reduce the price which the dwelling-house would fetch if sold on the open market or the rent which the landlord would be able to charge on letting the dwelling-house.

(5) A consent required by virtue of paragraph (1) may be validly given notwithstanding that it follows, rather than precedes, the action requiring it and may be given subject to a condition.

(6) Where the tenant has applied for a consent which is required by paragraph (1) then—

- (a) if the landlord refuses to give the consent it shall give to the tenant a written statement of the reasons why the consent was refused; and
- (b) if the landlord neither gives nor refuses to give the consent within a reasonable time, the consent shall be taken to have been withheld, and if the landlord gives the consent but subject to an unreasonable condition, the consent shall be taken to have been unreasonably withheld.

(7) If any question arises whether a condition attached to a consent was reasonable, it is for the landlord to show that it was.

(8) Any failure by the tenant to satisfy any reasonable condition imposed by the landlord in giving consent to an improvement which the tenant proposes to make, or has made, shall be treated for the purposes of this Chapter as a breach by the tenant of an obligation of his tenancy.

#### *Reimbursement of cost of tenant’s improvements*

35.—(1) This Article applies where a secure tenant has made an improvement and—

- (a) the landlord, or a predecessor in title of the landlord, has given its written consent to the improvement or is treated as having given its consent; and



- (b) work on the improvement was begun not earlier than the date of coming into operation of this Order; and
- (c) the improvement has materially added to the price which the dwelling-house may be expected to fetch if sold on the open market or the rent which the landlord may be expected to be able to charge on letting the dwelling-house.

(2) Where this Article applies, the landlord shall (in addition to any other power to make such payments) make, at or after the end of the tenancy, such payment to the tenant (or his personal representatives) in respect of the improvement as the landlord considers to be appropriate.

(3) The amount of any payment under paragraph (2) in respect of an improvement must not exceed the cost, or likely cost, of the improvement after deducting the amount of any grant in respect of that improvement under Part III.

*Rent not to be increased on account of tenant's improvements*

36.—(1) Where a person who is or was the secure tenant of a dwelling-house has lawfully made an improvement and has borne or would, but for a grant under Part III, have borne, the whole or part of its cost, then in determining—

- (a) at any time whilst he is a secure tenant of that dwelling-house; or
- (b) if he has died and on his death the tenancy vested in a person qualified to succeed him under Article 26, at any time whilst that person or his spouse is a secure tenant of that dwelling-house;

whether or to what extent to increase the rent, the landlord shall treat the improvement as justifying only such part of any increase which would otherwise be attributable to the improvement as corresponds to the part of the cost which neither has nor would have been so borne (and accordingly as not justifying any increase if the whole of the cost has or would have been so borne).

(2) Paragraph (1) does not apply to any increase attributable to rates.

*Variation of terms of secure tenancy*

37.—(1) The terms of a secure tenancy may be varied in accordance with the provisions of this Article but not otherwise.

(2) This Article does not apply to any term of a tenancy which is implied by any statutory provision (including this Order).

(3) The variation may be effected—

- (a) by agreement between the landlord and the tenant;
- (b) to the extent only that it relates to rent or to payments in respect of rates or services, by the landlord or the tenant in accordance with any provision in the lease or agreement creating the tenancy or in any agreement varying it; or

(c) by the landlord by a notice of variation served on the tenant.

(4) A notice of variation must specify the variation effected by it and the date on which it takes effect; and the period between the date on which it is served and the date on which it takes effect must not be shorter than four weeks.

(5) Before serving a notice of variation on the tenant the landlord shall—

- (a) serve on him a preliminary notice informing him of the landlord's

intention to serve a notice of variation, specifying the variation proposed to be effected and its effect and inviting him to comment on the proposed variation within such time, to be specified in the notice, as the landlord considers reasonable; and

- (b) consider any comment made by the tenant within the time specified in the preliminary notice;

and when the notice of variation is served it must be accompanied by such information as the landlord considers necessary to inform the tenant of the nature and effect of the variation.

- (6) Paragraph (5) does not apply to a variation—

(a) of the rent or of payments in respect of services or facilities provided by the landlord; or

(b) of payments in respect of rates.

(7) Where a notice of variation is served on the tenant and the tenant, before the date specified in it, gives a valid notice to quit under Article 27(3), the notice of variation does not take effect unless the tenant, with the written agreement of the landlord, withdraws his notice to quit before that date.

(8) References in this Article to variation include addition and deletion; and for the purposes of this Article the conversion of a monthly or fortnightly tenancy into a weekly, or a weekly into a monthly or fortnightly tenancy is a variation of a term of the tenancy, but a variation of the premises let under a tenancy is not.

#### *Provision of information about tenancies*

38.—(1) The landlord shall, within two years of the coming into operation of this Order and thereafter from time to time, publish information about its secure tenancies in such form as it considers best suited to explain in simple terms and so far as it considers appropriate, the effect of—

(a) the express terms of its secure tenancies;

(b) the provisions of this Part in so far as they apply.

(2) The landlord shall ensure that, so far as is reasonably practicable, the information published under paragraph (1) is kept up to date.

(3) The landlord under a secure tenancy shall supply the tenant—

(a) with a copy of the information for secure tenants published by it under paragraph (1); and

(b) with a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement, if any, nor implied by law.

(4) The statement required by paragraph (3)(b) shall be supplied—

(a) if the tenancy is granted after the coming into operation of this Order, on the grant of the tenancy or as soon as practicable afterwards; and

(b) if the tenancy was granted before the coming into operation of this Order within two years of that time.

#### *Housing management*

##### *Provision of information about housing allocation*

39.—(1) The landlord shall publish a summary of its rules—

(a) for determining the order in which prospective tenants or occupiers of

the landlord's dwelling-houses are to be granted tenancies or licences of those houses; and

(b) governing cases where secure tenants wish to move (whether or not by way of an exchange of dwelling-houses) to other dwelling-houses let under secure tenancies by that landlord or by another landlord.

(2) The landlord shall—

(a) maintain a set of the rules referred to in paragraph (1) and of the rules which it has laid down governing the procedure to be followed in allocating housing accommodation; and

(b) make such rules available for inspection at all reasonable hours without charge by members of the public—

(i) in the case of the Executive, at its district offices, and

(ii) in the case of a registered housing association, at its registered office.

(3) A registered housing association shall also send a copy of the rules referred to in paragraph (2)(a) to the Department.

(4) A copy of any summary published under paragraph (1) shall be furnished without charge, and a copy of any set of rules maintained under paragraph (2) shall be furnished on payment of a reasonable fee, to any member of the public who asks for one.

(5) At the request of any person who has applied to it for housing accommodation, the landlord shall make available to him, at all reasonable times and without charge, details of the particulars which he has given to the landlord about himself and his family and which the landlord has recorded as being relevant to his application for accommodation.

#### *Consultation with secure tenants*

40.—(1) Before making any decision in relation to any matter of housing management, the landlord shall consult those of its secure tenants affected by the matter.

(2) For the purposes of paragraph (1) a matter is one of housing management if, in the opinion of the landlord, it—

(a) relates to the management, maintenance, improvement or demolition of dwelling-houses let by the landlord under secure tenancies, or to the provision of services or amenities in connection with such dwelling-houses; and

(b) represents a new programme of maintenance, improvement or demolition or a change in the practice or policy of the landlord; and

(c) is likely substantially to affect its secure tenants as a whole or a group of them.

(3) A matter is not one of housing management for the purposes of paragraph (1) in so far as it relates to the rent payable under any secure tenancy or to any charge for services or facilities provided by the landlord.

(4) In paragraph (2) "group" means a group of secure tenants who—

(a) form a distinct social group; or

(b) occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house concerned or the housing estate or other larger area in which they are situated).

*Rights of landlord where secure tenancy appears to have been abandoned*

41.—(1) Where the landlord under a secure tenancy has reasonable grounds for believing that—

(a) the dwelling-house is unoccupied, and

(b) the tenant does not intend to occupy it as his home,  
the landlord shall be entitled to enter the dwelling-house at any time, for the purpose of making safe the dwelling-house, and any fittings, fixtures or furniture.

(2) For the purposes of paragraph (1) the landlord and its servants or agents may open, by force if necessary, any door or window of the dwelling-house.

(3) Where the landlord—

(a) has entered a dwelling-house under paragraph (1), and

(b) wishes to take possession of the dwelling-house,

the landlord shall serve on the tenant a notice in the prescribed form—

(i) stating that it has reason to believe that the dwelling-house is unoccupied and that the tenant does not intend to occupy it as his home;

(ii) requiring the tenant to inform it in writing within four weeks of service of the notice if he intends to occupy the dwelling-house as his home; and

(iii) informing the tenant that, if it appears to the landlord at the end of the said period of four weeks that the tenant does not intend so to occupy the dwelling-house, the secure tenancy will be terminated forthwith.

(4) Where the landlord has—

(a) served on the tenant a notice which complies with paragraph (3); and

(b) made such inquiries as may be necessary to satisfy the landlord that the dwelling-house is unoccupied and that the tenant does not intend to occupy it as his home,

and at the end of the period of four weeks mentioned in paragraph (3) is so satisfied, it may serve a further notice on the tenant which shall bring the tenancy to an end forthwith.

(5) Where a tenancy has been terminated under paragraph (4) the landlord shall be entitled to take possession of the dwelling-house forthwith without any further proceedings.

(6) The Department may by order make provision for the landlord to ensure the safe custody and delivery to the tenant of any property which is found in a dwelling-house to which this Article applies; and in particular—

(a) for requiring charges to be paid in respect of such property before it is delivered to the tenant; and

(b) for authorising the disposal of such property, if the tenant has not arranged for its delivery to him before the expiry of such period as the order may specify and the application of any proceeds towards any costs incurred by the landlord and any rent due but unpaid by the tenant to the landlord.

*Tenant's right of appeal against termination of tenancy under Article 41*

42.—(1) A tenant under a secure tenancy who is aggrieved by termination

of the tenancy by the landlord under Article 41 may appeal to the court within six months after the date of the termination.

(2) Where in proceedings under paragraph (1) it appears to the court that—

- (a) the landlord has failed to comply with any provision of Article 41; or
- (b) the landlord did not have reasonable grounds for finding that the dwelling-house was unoccupied, or did not have reasonable grounds for finding that the tenant did not intend to occupy it as his home; or
- (c) the landlord was in error in finding that the tenant did not intend to occupy the dwelling-house as his home, and the tenant had reasonable cause, by reason of illness or otherwise, for failing to notify the landlord of his intention so to occupy it,

the court shall—

- (i) where the dwelling-house has not been let to a new tenant, make an order that the secure tenancy shall continue; or
- (ii) in any other case, direct the landlord to make other suitable accommodation available to the tenant.

(3) Part II of Schedule 3 shall have effect to determine whether accommodation is suitable for the purposes of paragraph (2)(ii).

#### *Orders on divorce, nullity or judicial separation*

43.—(1) Subject to the modifications set out in paragraph (2), Schedule 2 to the Rent (Northern Ireland) Order 1978 (a) shall have effect with respect to the making by a court, of orders relating to a secure tenancy if—

- (a) a marriage is terminated or annulled by a decree of divorce or nullity; or
- (b) a spouse is granted a decree of judicial separation or an order under Article 18(2)(i) of the Domestic Proceedings (Northern Ireland) Order 1980 (b) other than such an order made as an interim exclusion order by virtue of Article 21 of that Order.

(2) For the purposes of paragraph (1), the modifications subject to which Schedule 2 to the Rent (Northern Ireland) Order 1978 is to have effect are as follows—

- (a) in paragraphs 1(1)(a) and 2(1)(a) in each place for the words “protected or statutory” there shall be substituted the word “secure”;
- (b) in paragraphs 1(2) and 2(2) in each place for the word “protected” there shall be substituted the word “secure”;
- (c) after paragraphs 1(2) and 2(2) in each place there shall be inserted the following sub-paragraph—

“(2A) Where the spouse is a successor, within the meaning of Chapter II of Part II of the Housing (Northern Ireland) Order 1983, his or her spouse shall be deemed to be a successor within the meaning of that Chapter.”;

- (d) paragraphs 1(3) and (4) and 2(3) and (4) shall be omitted.

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(a) S.I. 1978/1050 (N.I. 20). (b) S.I. 1980/563 (N.I. 5).

*Miscellaneous*

*Application to existing tenancies*

44. This Chapter applies to tenancies granted before as well as tenancies granted after the coming into operation of this Order.

*Application to licences*

45.—(1) Where a person who is not the tenant of a dwelling-house has a licence (whether or not granted for a consideration) to occupy the dwelling-house and the circumstances are such that, if the licence were a tenancy, it would be a secure tenancy, then, subject to paragraph (2), this Part applies to the licence as it applies to a secure tenancy and, as so applying, has effect as if expressions appropriate to a licence were substituted for “landlord”, “tenant”, “tenancy” and “secure tenancy”.

(2) Paragraph (1) does not apply to a licence which was granted to a person who entered the dwelling-house or any other land as a trespasser (whether or not before the grant another licence to occupy that or another dwelling house had been granted to him).

CHAPTER III

JURISDICTION

*Jurisdiction of county court*

46.—(1) Subject to Article 12, a county court has jurisdiction to determine any question arising under Chapter I or II of this Part and to entertain any proceedings brought thereunder and any claim (for whatever amount) in connection with a secure tenancy.

(2) The jurisdiction conferred by this Article includes jurisdiction to entertain proceedings on any question arising under Chapter I of this Part and any question—

- (a) whether any consent required by Article 30 or Article 34 was withheld or unreasonably withheld; or
- (b) whether a statement supplied in pursuance of Article 38(3)(b) is accurate;

notwithstanding that no other relief is sought than a declaration.

(3) If a person takes proceedings in the High Court which, by virtue of this Article, he could have taken in the county court he is not entitled to recover any costs.

*Extended discretion of court in certain proceedings for possession*

47.—(1) Where proceedings are brought for possession of a dwelling-house let under a secure tenancy on any of grounds 1 to 6 or 8 to 11 in Part I of Schedule 3, the court may adjourn the proceedings for such period or periods as it thinks fit.

(2) On the making of an order for possession of such a dwelling-house on any of those grounds, or at any time before the execution of the order, the court may—

- (a) stay or suspend execution of the order, or

(b) postpone the date of possession,  
for such period or periods as the court thinks fit.

(3) On any such adjournment as is referred to in paragraph (1) or any such stay, suspension or postponement as is referred to in paragraph (2), the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.

(4) If such conditions as are referred to in paragraph (3) are complied with, the court may, if it thinks fit, discharge or rescind the order concerned.

### PART III

#### GRANTS TOWARDS WORKS OF IMPROVEMENT, REPAIR AND CONVERSION

##### *Interpretation of Part III*

48.—(1) In this Part—

“appropriate percentage” has the meaning assigned to it by Article 52;

“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 (a), 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”, except where otherwise specified, means a grant of a description specified in Article 49 (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;

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(a) S.I. 1972/1265 (N.I. 14).

“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;

“modifications” includes additions, omissions and amendments;

“the relevant standard” means—

- (a) in relation to an improvement grant, the required standard referred to in Article 55,
- (b) in relation to an intermediate grant, the full standard referred to in paragraph (a) of Article 60 or, as the case may require, the reduced standard referred to in paragraph (b) of that Article,
- (c) in relation to a special grant or a repairs grant, the relevant standard of repair referred to in Article 63 (5) or 67 (7);

“the relevant works” has the meaning assigned to it by Article 50 (2) (b);

“secure tenancy” has the meaning given in Article 25;

“standard amenities” has the meaning assigned to it by Article 59.

(2) Expressions used in this Part and defined in Article 2 of the principal Order have the meaning given in that Article.

*Grants for provision, improvement and repair of houses*

49.—(1) Grants shall be payable by the Executive in accordance with this Part 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,
- (c) the repair of houses, and
- (d) the improvement of houses in multiple occupation,

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 58 (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 “special grant” in respect of works required for the improvement of a house in multiple occupation by the provision of (both or either)—
  - (i) standard amenities,
  - (ii) means of escape from fire; or
- (d) 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*

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

**(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 Part 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)** Subject to paragraph (12) and Articles 51 and 64, 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 estate in possession or a leasehold estate in possession of which not less than five years remain unexpired at the date of the application; or
- (b)** the applicant is entitled (otherwise than as a mortgagee 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).

**(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)** Except under Article 64, 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)** 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 Part; or
- (b)** works which were relevant works in relation to an application approved under Chapter I of Part IV of the principal Order; or
- (c)** works which were relevant works in relation to an application approved under Part VI of the Housing (Northern Ireland) Order 1976 (a); or

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(a) S.I. 1976/1780 (N.I. 25).

- (d) works specified in an application for a grant under Part III of the Housing on Farms Act (Northern Ireland) 1972 (a) which was approved; or
- (e) works specified in an application for a grant under Part I of the Housing Act (Northern Ireland) 1971 (b) which was approved, and the applicant for the grant is, or is the personal representative of, the person who made the earlier application.
- (9) Paragraph (8) does not apply if the relevant works have not been begun and either—
- (a) more than two years have elapsed since the date on which the previous application was approved; or
- (b) the application is made with a view to taking advantage of orders under Article 52.
- (10) 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 cannot 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.
- (11) The amount of a grant shall not be increased by virtue of paragraph (10) 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.
- (12) Paragraph (3) and Articles 53 and 69 shall not apply in relation to—
- (a) an application for a grant made by a charity or on behalf of a charity by the trustees thereof; or
- (b) an application for a grant made in respect of a house owned by an unregistered self-build society.
- (13) In paragraph (12)—
- (a) “charity” and “trustees” have the meaning given in section 35 of the Charities Act (Northern Ireland) 1964 (c);
- (b) “unregistered self-build society” has the meaning given in Article 114 of the principal Order.

#### *Grants to tenants*

51.—(1) The Executive may entertain an application for a grant under this Part from a person who has, in relation to his house—

- (a) a protected or statutory tenancy within the meaning of the Rent (Northern Ireland) Order 1978;
- (b) a secure tenancy;
- (c) a tenancy which satisfies such conditions as may be prescribed by the Department,

but not where the application is for an improvement grant in respect of works required for the provision of a house.

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(a) 1972 c. 3 (N.I.).

(b) 1971 c. 16 (N.I.).

(c) 1964 c. 33 (N.I.).

(2) The Executive may refuse to entertain the application unless it is accompanied by a certificate given by a qualified person and stating his intention that, throughout the period of five years beginning with the certified date 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 family of the person giving the certificate.

(3) A person is qualified to give a certificate for the purposes of paragraph (2) if the Executive could (apart from this Article) have entertained an application from him.

(4) Unless the application is accompanied by that certificate the Executive shall not impose any of the grant conditions which may be specified under Article 69.

*Appropriate percentage*

52.—(1) In this Part “the appropriate percentage” (which is relevant for determining the grant or the maximum amount of grant) shall, in relation to an application for a grant, be the percentage applicable to that application in accordance with the following provisions of this Article.

(2) Except insofar as the following provisions of this Article provide otherwise, the appropriate percentage, in relation to an application for an improvement grant or a special grant, is 50 per cent.

(3) The appropriate percentage in relation to—

- (a) an application for an improvement grant to which one or more of the conditions referred to in paragraph (4) apply; or
- (b) an application for a special grant to which one or more of the conditions referred to in paragraph (5) apply,

is 75 per cent.

(4) For the purposes of paragraph (3) (a) the conditions are—

- (a) that, on the date on which the application is approved, the premises in respect of which it is made are in a housing action area;
- (b) that the application is in respect of a house (including any house which is to be provided by the conversion of a house) which is unfit for human habitation and that the relevant works consist of or include works which, if executed, will contribute towards rendering the house fit for human habitation;

(c) that—

- (i) the house to which the application relates, lacks, or is to be provided by the conversion of a house which lacks, one or more of the standard amenities,
  - (ii) the relevant works consist of or include the provision of a standard amenity which is lacking, and
  - (iii) the Executive is satisfied that the standard amenity which is to be provided, or, where more than one such amenity is to be provided, each of them, has been lacking for a period of not less than 12 months ending on the date on which the application was made;
- (d) that the application is in respect of a house which is, or is to be, provided by the conversion of a house which is in need of works of repair of a substantial and structural character, and the relevant works consist of or include such works;

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- (e) that the application is in respect of a house for a disabled occupant and the relevant works consist of or include works needed to meet a requirement arising from the particular disability from which that person suffers.
- (5) The conditions mentioned in paragraph (3) (b) are—
  - (a) that the relevant works consist of or include the provision of any of the standard amenities and the Executive considers such provision is necessary to make the house in multiple occupation reasonably suitable for occupation by the number of individuals or households for the time being occupying it;
  - (b) that the house in multiple occupation is not provided with such means of escape from fire as the Executive considers necessary and the relevant works consist of or include the provision of such means of escape;
  - (c) any of the conditions set out in sub-paragraphs (a) to (d) of paragraph (4).
- (6) In relation to an application for an improvement grant or a special grant, where it appears to the Executive that the applicant would not without undue hardship be able to finance so much of the cost of the relevant works as is not met by the grant—
  - (a) if apart from this paragraph, paragraph (2) would apply, the appropriate percentage is 65 per cent; and
  - (b) if apart from this paragraph, paragraph (3) would apply, the appropriate percentage is 90 per cent.
- (7) In relation to an application for an improvement grant in respect of a house which is subject to a protected or statutory tenancy under the Rent (Northern Ireland) Order 1978, the appropriate percentage is 90 per cent.
- (8) In relation to an application for an intermediate grant or a repairs grant, the appropriate percentage is—
  - (a) where the application is made on or before 31st March 1984 and approved after 16th April 1982, 90 per cent;
  - (b) where—
    - (i) a house, to which the application relates, is subject to a protected or statutory tenancy under the Rent (Northern Ireland) Order 1978, or
    - (ii) it appears to the Executive that the applicant would not without undue hardship be able to finance so much of the cost of the relevant works as is not met by the grant, 90 per cent;
  - (c) where the net annual value of the house to which the application relates, other than a house in respect of which a district council has issued a regulated rent certificate under Article 9 of the Rent (Northern Ireland) Order 1978, is less than £60, 100 per cent;
  - (d) in any other case, 75 per cent.
- (9) Subject to Article 106 (4), the Department may by order modify the provisions of this Article in such manner as it thinks fit.

*Certificates of future occupation*

53.—(1) Subject to Article 50 (12), the Executive shall not entertain an application for a grant, other than a repairs grant, special grant or any grant

made under Article 51 to a tenant, 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) 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 four years beginning on that first anniversary, the house will be the only or main residence of, and will be occupied exclusively by, either—

- (a) the applicant himself and members of his household (if any); or
- (b) a person who is a member of the applicant's family, or a grandparent or grandchild of the applicant or his spouse, and members of that person's household (if any).

(4) But in a case where application for grant is made by the personal representatives of a deceased person or by trustees, it is a certificate stating that the applicants are personal representatives or trustees and intend that, on or before the first anniversary of the certified date and throughout the period of four years beginning on that first anniversary, the house will be the only or main residence of, and exclusively occupied by, either—

- (a) a beneficiary and members of his household (if any); or
- (b) a person related to a beneficiary by being a member of his family or a grandparent or grandchild of the beneficiary or his spouse, and members of that person's household (if any);

and "beneficiary" means a person who, under the will or intestacy or, as the case may require, under the terms of the trust, is beneficially entitled to an interest in the house or the proceeds of sale of it.

(5) For the purposes of this Part a "certificate of availability for letting" is a certificate stating that the applicant for the grant intends that, throughout the period of five 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 house 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) Subject to paragraphs (7) and (8), where any house, in respect of which a grant other than a repairs grant, special grant or grant made under Article 51 to a tenant 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.

(7) Where an application for a grant was accompanied by a certificate of owner-occupation with respect to a house, paragraph (6) shall not apply if—

- (a) at any time on or before the first anniversary of the certified date or during the period of four years beginning on that anniversary the house

is, as a residence, occupied exclusively by, or is available for the exclusive occupation of, any person who derives title to the house through or under the applicant and members of that person's household (if any); or

- (b) at any time during the period of four years beginning on the first anniversary of the certified date, the house is let or is available for letting as a residence, and not for a holiday, by the applicant or by any such person as described in sub-paragraph (a), to persons other than members of the applicant's, or as the case may be, such person's family.

(8) Where an application for a grant was accompanied by a certificate of availability for letting with respect to a house, paragraph (6) shall not apply if, at any time during the period of five years beginning with the certified date, the house is let or is available for letting as a residence, and not for a holiday, by any person who derives title to the house through or under the applicant otherwise than by a conveyance for value, to persons other than members of that person's family.

*Net annual value limit on improvement and repairs grants*

54.—(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) Paragraphs (1) and (2) do not apply—

- (a) to an application for an improvement grant in respect of a house in a housing action area; or
- (b) to an application for an improvement grant in respect of a house for a disabled occupant, if it appears to the Executive that the works consist of or include works needed to meet a requirement arising from the particular disability from which that person suffers.

(4) The Executive shall not approve an application for a repairs grant in respect of a house or houses situated elsewhere than in a housing action area, other than a house or houses which is or are subject to any of the tenancies described in Article 51 (1), 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.

(5) 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) . . . £225,
- (b) 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,
- (c) in relation to houses converted as mentioned in paragraph (2) . . . £350,
- (d) in relation to a house falling within paragraph (4) . . . £225.

(6) Subject to Article 106 (4), the Department may by order modify the provisions of this Article in such manner as it thinks fit.

### *Improvement grants*

#### *Improvement grants*

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

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

and, subject to this Part, 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 reasonable 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) The Executive may dispense, to the extent that it thinks fit, with any of the conditions specified in paragraph (3) (a) to (c) if it is satisfied that the applicant could not, without undue hardship, finance the cost of the works without the assistance of a grant.

(6) 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*

56.—(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 57 referred to as “the estimated expense” of the relevant works.

(2) Subject to paragraphs (3) and (4), 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) Where an application for an improvement grant is in respect of a house—

(a) which is in need of works of repair of a substantial and structural nature, or

(b) which is to be provided by the conversion of a house in need of such works of repair,

the percentage specified in paragraph (2) shall be not more than 70 per cent.

(5) 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), (3) or (4) as the case may be, determine a higher amount as the amount of the estimated expense.

(6) The Department may by order modify paragraphs (2), (3) and (4) in such manner as it thinks fit.

*Amount of improvement grants*

57.—(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 56 (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 paragraphs (4) and (5) "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, £6,600 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, £7,700 or such other amount as the Department may by order specify.

(4) Where, on the date on which a grant in respect of it is approved, any house (including any house to be provided by the conversion of a house) is covered by one or more of the following descriptions, that is to say—

- (a) it is in a housing action area;
- (b) it is unfit for human habitation and the relevant works consist of or include works which if executed would contribute towards rendering the house fit for human habitation;
- (c) it meets the following conditions, namely—
  - (i) it lacks, or is to be provided by the conversion of a house which lacks, one or more of the standard amenities, and
  - (ii) the relevant works consist of or include the provision of a standard amenity which is lacking, and
  - (iii) the Executive is satisfied that the standard amenity which is to be provided, or, where more than one such amenity is to be provided, each of them, has been lacking for a period of not less than 12 months, ending on the date on which the application was made;
- (d) it is in need of works of repair of a substantial and structural character, and the relevant works consist of or include such works;
- (e) it is for a disabled occupant and the relevant works consist of or include works needed to meet a requirement arising from the particular disability from which that person suffers;

for the amounts specified in paragraph (3) (a) and (b) there shall be substituted the amounts of £10,200 and £11,800.

(5) 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.

(6) In any case where, after the amount of an improvement grant has been fixed under—

- (a) paragraph (1),
- (b) Article 73 (1) of the principal Order, or
- (c) Article 49 (1) of the Housing (Northern Ireland) Order 1976,

the Executive, in exercise of its powers under Article 56 (5), substitutes a higher amount as the amount of the estimated expense, the eligible expense shall be re-calculated under paragraph (3) or (4), as the case may be, 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—

(i) the amount of the improvement grant shall be increased accordingly; and

(ii) the Executive shall notify the applicant of the increased amount of the grant.

(7) The Department may by order modify paragraphs (3) and (4) in such manner as it thinks fit.

### *Intermediate grants*

#### *Intermediate grants*

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

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

(b) the conditions for 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 reason 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 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*

59.—(1) Subject to paragraph (2), the “standard amenities” for the purposes of this Part are the amenities which are described in the first column of Part I of Schedule 4 and conform to such of the provisions of Part II of that Schedule as are applicable.

(2) The Department may by order modify the provisions of Schedule 4 and any such order may contain such transitional or other supplemental provisions as appear to the Department to be expedient.

*Conditions of approval*

60. The Executive shall not approve an application for an intermediate grant unless—

- (a) 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 be fit for human habitation (to be determined in accordance with Article 46 of the principal Order); or
- (b) it seems reasonable in all the circumstances to do so even though the house or houses will not reach that standard on completion of the relevant works.

*Approval of certain applications for intermediate grants*

61.—(1) Subject to Articles 50, 53, 58 (2) and (4) and 60, the Executive shall approve an application for an intermediate grant which is duly made in accordance with this Part.

(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, to put the house into reasonable repair (disregarding the state of internal decorative repair) having regard to its age and character and the locality in which it is situated and the period during which it is likely to be available for use as a house, 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, in the opinion of the Executive, put the house into reasonable repair,

and may approve the application as so varied.

*Determination of estimated expense and amount of intermediate grants*

62.—(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 Department 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 the relevant limit; 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 4 in relation to each of the standard amenities which are to be provided by the relevant works.

(4) The relevant limit for the purposes of paragraph (3) (a) is—

(a) £3,000 or such other amount as the Department may by order specify in a case where either—

(i) the house will, in the opinion of the Executive, be put on completion of the relevant works into reasonable repair (disregarding the state of internal decorative repair) having regard to its age and character and the locality in which it is situated and the period during which it is likely to be available for use as a house; or

(ii) it appears to the Executive that the applicant could not without undue hardship finance the cost of the works necessary to put the house into reasonable repair;

(b) in any other case, the amount obtained by multiplying the number of standard amenities to be provided on completion of the relevant works by £300 or such other amount as the Department may by order specify, but subject to a maximum of £1,200 or such other amount as the Department may by order specify.

(5) 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).

(6) Subject to paragraph (7), 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.

(7) Where, after the amount of an intermediate grant has been notified to the applicant under paragraph (6), the Executive, in exercise of its powers under paragraph (2), determines a higher amount under either or both sub-paragraphs (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.

*Special grants*

*Special grants*

63.—(1) The Executive shall pay a special grant if—

(a) an application for a special grant, made in accordance with this Part, is approved by it, and

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

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

(2) An application for a special grant must state by how many households and individuals the house concerned is occupied and (as applicable)—

(a) the standard amenities with which it is already provided;

(b) the means of escape from fire which are already available.

(3) Subject to Article 64, the application shall not be approved unless the Executive is satisfied that on completion of the relevant works the house will attain the relevant standard of repair.

(4) If, in the opinion of the Executive, the relevant works are more extensive than is necessary for the purpose of securing that the house will attain that standard, 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 necessary for that purpose; and the Executive may then approve the application as so varied.

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

(6) In its application in relation to special grants, Part II of Schedule 4 shall have effect as if—

(a) in paragraph 1 the words “Except as provided by paragraph 2”; and

(b) paragraphs 2 and 3;

were omitted.

*Mandatory special grants*

64.—(1) In so far as an application for a special grant relates to the provision of standard amenities, the Executive shall not refuse it if it is duly made and the Executive is satisfied that the relevant works are necessary for compliance with so much of a notice under Article 107 of the principal Order as relates to standard amenities.

(2) In so far as such an application relates to the provision of means of escape from fire, the Executive shall not refuse it if it is duly made and the Executive is satisfied that the relevant works are necessary for compliance with a notice under paragraph 2 (1) of Schedule 7A to the principal Order.

*Amount of special grants*

65.—(1) Where the Executive approves an application for a special grant it shall determine the amounts of the expenses which it thinks proper to be incurred respectively for those of the relevant works which—

(a) consist in providing standard amenities;

(b) relate to the provision of means of escape from fire; and

(c) consist of works of repair or replacement;  
and the Executive shall notify the applicant of the amounts so determined by it.

(2) If the applicant satisfies the Executive that the relevant works cannot be, or could not have been, carried out without 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 any of sub-paragraphs (a) to (c) of paragraph (1).

(3) The amount of a special grant—

(a) so far as the grant is made in pursuance of Article 64, shall be the appropriate percentage of the eligible expense ascertained under Article 66; and

(b) otherwise 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.

(4) With the notification under paragraph (1), the Executive shall send to the applicant a notification of the amount of the grant.

(5) If, after the amount of a special grant has been notified, the Executive under paragraph (2) determines a higher amount under any of the heads of paragraph (1), the eligible expense shall be re-calculated; and if the amount of it is then greater than when the application for grant was approved, the amount of the grant shall be increased, and the applicant notified, accordingly.

*Eligible expense for purposes of special grants*

66.—(1) 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 special grant shall be the aggregate of the contributory elements specified in the following paragraphs.

(2) As regards the provision of standard amenities, the contributory element is so much of the amount determined under Article 65 (1) (a) as does not exceed the aggregate of the amounts specified in the second column of Part I of Schedule 4 in relation to each of the standard amenities which are to be provided by the relevant works (so that, where the relevant works make provision for more than one standard amenity of the same description, a separate amount shall be aggregated for each of those amenities).

(3) As regards the provision of means of escape from fire, the contributory element is so much of the amount determined under Article 65 (1) (b) as does not exceed £8,100 or such other amount as the Department may by order specify.

(4) As regards works of repair or replacement, the contributory element is so much of the amount determined under Article 65 (1) (c) as does not exceed £3,000 or such other amount as the Department may by order specify.

*Repairs grants*

*Repairs grants*

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

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

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

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

(2) Subject to paragraphs (4), (5) and (6), the Executive shall not approve an application for a repairs grant unless—

- (a) the application is in respect of a house erected before 31st December 1956, or such other date as the Department may specify by order; and
- (b) the Executive 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 attain the relevant standard of repair it may dispense with the condition in paragraph (2) (b).
- (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) (b).
- (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) Article 63 (5) shall apply in determining, for the purposes of this Article, whether a house attains the relevant standard of repair.

*Determination of estimated expense and amount of repairs grants*

68.—(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 £4,800 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.

#### *General*

#### *Power of Department to specify grant conditions*

69.—(1) Subject to Article 50 (12), the Department may by order specify conditions (in this Article referred to as “grant 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 that paragraph may—

- (a) specify the period during which the grant conditions shall apply;
- (b) make provision as to the enforceability of the grant conditions; and
- (c) provide for the repayment of the grant, or such part thereof as the Executive thinks fit, 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 five years beginning with the certified date.

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

(5) There shall be included among the matters which are required to be registered in the Statutory Charges Register any grant condition attached by virtue of this Article to any house in respect of which a grant has been paid under this Part.

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

70. If the Executive—

- (a) does not approve an application for a grant, or
- (b) fixes the amount of an improvement grant, special grant or a repairs grant at less than the appropriate percentage of the eligible expense within the meaning of Article 57, 65 or 68, as the case may be,

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

#### *Grant restricted to applicant and his personal representatives*

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



(2) If, before the certified date an applicant for a grant ceases to have such an estate as is referred to in Article 50 (3) or 51 (1)—

(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*

72.—(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 56 (5), 62 (2), 65 (2) or 68 (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 a grant is paid in instalments, the aggregate of the instalments paid before the completion of the works shall not at any time exceed—

(a) in the case of intermediate grant, the appropriate percentage of the total cost of the works so far executed;

(b) in the case of improvement grant, special grant or repairs grant, an amount bearing to that total cost the same proportion as the fixed amount of the grant bears to the eligible expense.

(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*

73.—(1) Where a grant under this Part 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 estate in possession or a leasehold estate in possession of which not less than five years remain unexpired.

## PART IV

### AMENDMENTS OF THE PRINCIPAL ORDER

#### CHAPTER I

##### HOUSES IN MULTIPLE OCCUPATION

###### *Overcrowding*

74.—(1) For Article 102 of the principal Order the following Article shall be substituted—

###### *“Overcrowding in houses in multiple occupation*

102.—(1) If it appears to the Executive, in the case of a house in multiple occupation, that an excessive number of persons is being or is likely to be accommodated on the premises having regard to the rooms available, the Executive may serve on any person appearing to it to be the occupier of the premises or on any person appearing to it to have the control and management thereof, or on both, a notice under this paragraph (an “overcrowding notice”) complying with paragraphs (2) and (3) and including either—

- (a) the requirement set out in paragraph (4); or
- (b) that set out in paragraph (5).

(2) An overcrowding notice shall state, in relation to every 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 sleeping accommodation.

(3) An overcrowding notice may, in relation to any room, specify 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.

(4) The requirement referred to in paragraph (1) (a) is that the person on whom the overcrowding notice is served must refrain from—

- (a) knowingly permitting any room to be occupied as sleeping accommodation otherwise than in accordance with the overcrowding notice; or
- (b) knowingly permitting such number of persons to occupy the premises as sleeping accommodation that it is not possible, without—
  - (i) one or more rooms to which the overcrowding notice relates being occupied as sleeping accommodation otherwise than in accordance with that notice; or

(ii) any part of the premises which is not a room being occupied as sleeping accommodation;

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) The requirement referred to in paragraph (1) (b) is that the person on whom the overcrowding notice is served must refrain from—

(a) knowingly permitting any room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the overcrowding notice; or

(b) knowingly permitting a new resident to occupy any part of the premises as sleeping accommodation if it is not possible, without—

(i) one or more rooms to which the overcrowding notice relates being occupied as sleeping accommodation otherwise than in accordance with that notice; or

(ii) any part of the premises which is not a room being occupied as sleeping accommodation;

both to permit the new resident so to occupy any part of the premises and 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.

(6) In paragraph (5) “new resident” means a person who was not immediately before the date on which the overcrowding notice was served living in the house.

(7) Where the Executive has served an overcrowding notice on any person and that notice includes the requirement referred to in paragraph (5), the Executive may, at any time, withdraw that overcrowding notice and serve on that person, in its place, an overcrowding notice which includes the requirement referred to in paragraph (4).

(8) Not less than seven days before serving an overcrowding notice, the Executive shall—

(a) in writing inform the person appearing to it to be the occupier of the premises and any person appearing to it to have the control and management thereof of its intention to serve the notice, and

(b) ensure, so far as is reasonably possible, that every person living in the house is informed of that intention;

and shall afford to any such person an opportunity of making representations regarding its proposal to serve the notice.

(9) The Executive may serve on the person appearing to it to be the occupier of premises in respect of which an overcrowding notice is in force, a notice requiring him to furnish it within seven days with a statement in writing giving all or any of the following particulars, that is to say—

(a) the number of individuals who are, on a date specified in the notice, occupying any part of the premises as sleeping accommodation;

(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; and

(d) the rooms used by those individuals and families or households respectively.

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

(11) The Executive may at any time, on the application of any person having an estate in the house, revoke an overcrowding notice or vary it so as to allow more people to be accommodated in the house.

(12) If the Executive refuses an application under paragraph (11), or 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, within 21 days from the date of service of the notification, appeal to a court of summary jurisdiction, and on the appeal the court shall have power to revoke the notice or vary it in any manner in which it might have been varied by the Executive.

(13) Any person who contravenes an overcrowding notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(14) Any person who knowingly fails to comply with the requirements of a notice under paragraph (9), or furnishes a statement which he knows is false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50."

(2) In Article 103 of the principal Order—

(a) in paragraph (1) for the words from "A notice" to "paragraph (3)" there shall be substituted the words "A notice served under paragraph (1) of Article 102 shall, if no appeal is brought under paragraph (10)," ; and

(b) in paragraph (2) for the words from "A notice" to "paragraph (3)" there shall be substituted the words "A notice served under paragraph (1) of Article 102 against which an appeal is brought under paragraph (10)".

(3) Nothing in this Article shall affect the operation of the principal Order, as it had effect immediately before the date of coming into operation of this Order, in relation to any notice served under Article 102 before that date.

*Means of escape from fire*

75.—(1) For Article 109 of the principal Order the following Article shall be substituted—

*"Means of escape from fire*

109. Schedule 7A shall have effect as to the means of escape from fire to be provided in houses in multiple occupation."

(2) After Schedule 7 to the principal Order there shall be inserted the Schedule set out in Schedule 5.

(3) In Articles 110 (1) and 111 (1) of the principal Order, for the references to Article 109 there shall be substituted references to paragraph 2 of Schedule 7A of that Order.

(4) Nothing in this Article shall affect the operation of Article 109 of the principal Order as it had effect immediately before the date of coming into operation of this Order, in relation to any notice served under that Article before that date.

CHAPTER II  
HOUSING ASSOCIATIONS

*Functions of the Department*

76. In Article 115 of the principal Order—

(a) after paragraph (2) the following paragraph shall be inserted—

“(2A) In exercising its functions under paragraph (1) (a) and (b) the Department may, with the consent of the Department of Finance and Personnel, make grants—

- (a) to registered housing associations towards the expenses incurred by them in carrying out the objects mentioned in Article 124 (3) (c) and (d) (advice on formation or running of other housing associations and provision of services for them); and
- (b) to other voluntary organisations towards the expenses incurred by them in carrying out the like objects;

and any such grant may be made subject to such conditions as the Department may, with the consent of the Department of Finance and Personnel, determine.”;

(b) after paragraph (3) the following paragraph shall be inserted—

“(4) For the purposes of paragraph (2A) the expression “voluntary organisation” means a body the activities of which are carried on otherwise than for profit.’.

*Disposal of land by housing associations, etc.*

77. For Article 123 of the principal Order there shall be substituted the following Article—

*Disposal of land*

123.—(1) Subject to paragraph (2), as from the coming into operation of the Housing (Northern Ireland) Order 1983 any provision contained in the rules of a registered housing association which prevents it from disposing of any land (where such disposal would otherwise be lawful) shall be of no effect.

(2) 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 any grant-aided land as defined in Schedule 9,

without the consent of the Department.

(3) Any such consent may be given subject to such conditions as the Department sees fit to impose.

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

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- (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 consideration of a fine.
- (5) Without prejudice to the generality of the expression "dispose" in paragraph (2), in paragraph (4) the expression "lease" includes an agreement for a lease and a licence to occupy and the expressions "grant" and "term" shall be construed accordingly.

*Removal of certain housing associations from register*

78. In Article 125 of the principal Order—

(a) after paragraph (2) the following paragraph shall be inserted—

“(2A) Where a society which is registered—

(a) has not at any time received—

- (i) a loan under Article 117 or a grant under Article 137 or 139,
- (ii) any such payment or loan as is specified in paragraph 2 or 3 of Schedule 9, or
- (iii) a loan under Article 6 of the Housing (Northern Ireland) Order 1976, or a grant under Article 27 or 29 of that Order; and

(b) requests the Department to remove it from the register;

the Department may, if it thinks fit, remove that society from the register.”;

(b) in paragraph (6) for the words “this Article” there shall be substituted the words “paragraph (2)”.

*Accounting and auditing requirements for registered housing associations*

79. After Article 126 of the principal Order there shall be inserted the following Articles—

*“Accounts and audit*

126A.—(1) The Department may by order, made subject to negative resolution, lay down accounting requirements for registered housing associations with a view to ensuring that the accounts of every registered housing association are prepared in the requisite form and give a true and fair view of the state of affairs of the association, so far as its housing activities are concerned, and of the disposition of funds and assets which are, or at any time have been, in its hands in connection with those activities.

(2) The accounts of every registered housing association must comply with those requirements; and the auditor’s report shall state (in addition to any other matters which it is required to state) whether in the auditor’s opinion they do so comply.

(3) Every registered housing association shall furnish to the Department a copy of its accounts, and auditor’s report within six months of the end of the period to which they relate.

(4) A registered housing association shall be subject to section 38 (1) of the Act of 1969 (obligation to appoint auditors) without regard to the volume of its receipts and payments, the number of its members or the value of its assets; and such an association is in no case to be treated as an exempt society under that section.

(5) The method by which an association shall distinguish in its accounts between its housing activities and other activities shall be as laid down by orders under paragraph (1).

(6) Paragraphs (2) to (5) apply with respect to any period beginning on or after the day on which the first order under paragraph (1) comes into force; and the requirements contained in any order under that paragraph shall not apply in relation to any period beginning before the day on which the order comes into force.

*Enforcement of Article 126A*

**126B.**—(1) All persons who are directly concerned with the conduct and management of the affairs of a registered housing association and are in that capacity responsible for the preparation and audit of accounts shall have the duty to ensure that Article 126A is complied with by the association.

(2) If—

- (a) the accounts of a registered housing association, as furnished to the Department under Article 126A (3), do not comply with the accounting requirements laid down under paragraph (1) of that Article; or
- (b) Article 126A (3) is not complied with in respect of the accounts and auditor's report,

the association as well as each of the persons on whom the above duty is imposed shall be liable on summary conviction to a fine not exceeding £200.

(3) It is a defence—

- (a) for a person charged under paragraph (2) to prove that he did everything that could reasonably have been expected of him by way of discharging the duty imposed by paragraph (1); and
- (b) for an association charged under paragraph (2) to prove that the persons mentioned in paragraph (1) did everything that could reasonably have been expected of them by way of discharging the duty imposed by paragraph (1) in relation to the association.

(4) No proceedings for an offence under this Article shall be instituted except by or with the consent of the Director of Public Prosecutions for Northern Ireland or the Department.”.

*Inquiries into affairs of registered housing association and power to act for its protection*

**80.** Articles 128 and 129 of the principal Order are amended and extended in accordance with Schedule 6.

*Amendment of rules of registered housing association*

**81.** In Article 133 of the principal Order, after paragraph (5) the following paragraph shall be inserted—

“(6) Section 9 of the Act of 1969 shall have effect in relation to a registered housing association as if—

- (a) in subsection (1) after the words “shall not be valid” there were inserted the words “without the consent of the Department of the Environment nor” and after paragraph (b) there were inserted the

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words "and there shall also be sent with the copies of the amendment a copy of the consent of the Department of the Environment under this subsection"; and

- (b) in subsection (2) at the end of the words preceding the paragraphs there were inserted the words "notice of any such change shall be sent to the Department of the Environment and".

*Payments to certain committee members and others, etc.*

82. For paragraphs (3) to (7) of Article 134 and Article 135 of the principal Order (payments to members, etc. of registered housing associations and contracts with committee members) there shall be substituted the provisions set out in Schedule 7.

*Financial assistance for housing associations*

83. Chapter III of Part VII of the principal Order shall be amended in accordance with Schedule 8.

*Recoupment of surplus rental income*

84. After Article 140 of the principal Order the following Article shall be inserted—

*"Recoupment of surplus rental income*

140A.—(1) Every registered housing association which has at any time received a grant under Article 137 or under Article 27 of the Housing (Northern Ireland) Order 1976 shall show separately in its accounts for any period the surpluses arising from increased rental income during that period from housing projects in connection with which the grant was made.

(2) The surpluses are to be shown by each association in a fund to be known as the Grant Redemption Fund; and the method of constituting the Fund and of showing it in the association's accounts is to be as required by order of the Department under Article 126A (1).

(3) The surpluses in respect of any period are to be calculated in a manner determined by the Department for housing associations generally, and in determining it the Department may take account of the rental income received or capable of being received by an association and the management and maintenance costs and loan charges incurred or likely to be incurred by it.

(4) The manner of calculating surpluses shall be determined after consultation with organisations appearing to the Department to be representative of registered housing associations, and shall be made known to the associations; and surpluses may be calculated differently for housing associations of different kinds or houses in different areas.

(5) The Department may give notice to a registered housing association requiring it to pay to the Department, with interest, if demanded, or to apply or appropriate for purposes the Department specifies, any sums standing in that association's Grant Redemption Fund at the end of a period of account.

(6) Any interest demanded under paragraph (5)—

- (a) shall be at the rate or rates determined by the Department, with the consent of the Department of Finance and Personnel; and



(b) shall be payable either from the date of the notice or from such earlier date, but not earlier than the end of the period of account, as the notice may specify.

(7) Paragraphs (1) and (2) apply to an association's accounts for any period beginning on or after the date on which the first order under Article 126A (1) comes into force."

CHAPTER III  
MISCELLANEOUS

*Advances by the Executive*

85. The following Article shall be substituted for Article 9 of the principal Order—

*"Advances by the Executive*

9.—(1) Subject to such conditions as the Department may specify, the Executive may—

- (a) advance money by way of loan to any person for any of the purposes mentioned in paragraph (2);
- (b) on the disposal of any house, allow any sum to be left outstanding on the security of the house; or
- (c) take a transfer of a mortgage in pursuance of Article 156.

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

- (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;
- (d) facilitating the repayment of an amount outstanding on a previous loan made for any of the purposes specified in sub-paragraphs (a) to (c)."

*Closing orders*

86.—(1) For paragraph (1) of Article 38 of the principal Order there shall be substituted the following paragraph—

"(1) Where the Executive would but for this Article make a demolition order in respect of a house—

- (a) 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; and
- (b) it shall, if the house in respect of which it proposes to make the demolition order is a listed building or a building within a conservation area;

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) In paragraph (3) of Article 38 of the principal Order for the words "at any time" there shall be substituted the following sub-paragraphs—

- "(a) where paragraph (1) (a) applies, at any time; or
- (b) where paragraph (1) (b) applies, after consultation with the Department;".

(3) After paragraph (3) of Article 38 of the principal Order there shall be added the following paragraph—

“(4) In paragraph (1) “building”, “listed building” and “conservation area” have the meaning assigned to them in the Planning (Northern Ireland) Order 1972.

*Indemnity agreements with building societies*

87. The following Article shall be substituted for Article 156 of the principal Order—

*“Power of the Executive to enter into indemnity agreements with building societies*

156.—(1) The Executive may, with the approval of the Department, enter into agreements with building societies lending on the security of house property in Northern Ireland whereby, in the event of default by the mortgagor, and in circumstances and subject to conditions specified in the agreements, the Executive binds itself to indemnify the building society in respect of—

- (a) the whole or part of the mortgagor’s outstanding indebtedness; and
- (b) any loss or expense falling on the building society in consequence of the mortgagor’s default.

(2) In paragraph (1) “house property” means any property which is a house within the meaning of Article 2 (2).

(3) The agreement may also, where the mortgagor is made party to it, enable or require the Executive in specified circumstances to take a transfer of the mortgage and assume rights and liabilities under it, the building society being then discharged in respect of them.

(4) The transfer may be made to take effect—

- (a) on any terms provided for by the agreement (including terms involving substitution of a new mortgage agreement or modification of the existing one); and
- (b) so that the Executive is treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceding acts, omissions and events.

(5) The Department may under paragraph (1) approve particular agreements or give notice that particular forms of agreement have its approval; and—

- (a) may in either case make the approval subject to conditions;
- (b) shall, before giving notice that a particular form has its approval, consult the Registrar of Friendly Societies for Northern Ireland, the Executive and such organisations representative of building societies as the Department thinks expedient.

(6) In this Article “building society” means a society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967.”.

*Financial assistance for voluntary organisations concerned with housing*

88. After Article 156 of the principal Order there shall be inserted the following Article—

*“Financial assistance for voluntary organisations concerned with housing*

156A.—(1) Subject to such terms and conditions as it may determine, the Department may, with the consent of the Department of Finance and Personnel, give to a voluntary organisation assistance by way of grant or by way of loan, or partly in the one way and partly in the other, for the purpose of enabling or assisting the organisation to provide training or advice, or to undertake research, or for other similar purposes relating to housing.

(2) In paragraph (1) “voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any district council or other public body, within the meaning of section 146 (2) of the Local Government Act (Northern Ireland) 1972, or a registered housing association with the meaning of Article 114.”

*Increase of membership of the Executive*

89. In paragraph 1 (1) of Schedule 1 to the principal Order for the word “nine” there shall be substituted the word “ten”.

PART V

PRIVATE SECTOR TENANTS

*Interpretation of Part V*

90. In this Part “the 1978 Order” means the Rent (Northern Ireland) Order 1978.

*Protected shorthold tenancies*

*Preliminary*

91. Articles 92 to 95 modify the operation of the 1978 Order in relation to protected shorthold tenancies as defined in Article 92, and shall be construed as one with the 1978 Order.

*Protected shorthold tenancies*

92.—(1) A protected shorthold tenancy is a protected tenancy granted after the coming into operation of this Order which is granted for a term certain of not less than one year nor more than five years and satisfies the following conditions, that is to say,—

- (a) it cannot be brought to an end by the landlord before the expiry of the term, except in pursuance of a provision for re-entry or forfeiture for non-payment of rent or breach of any other obligation of the tenancy; and
- (b) before the grant the landlord has given the tenant a valid notice stating that the tenancy is to be a protected shorthold tenancy; and

(c) either—

- (i) a rent for the dwelling-house is registered by the Department under Article 26 of the 1978 Order at the time the tenancy is granted, or
- (ii) an application for the registration of a rent for the dwelling-house is made under Article 26 of the 1978 Order not later than 28 days after the beginning of the term and is not withdrawn.

(2) A tenancy of a dwelling-house is not a protected shorthold tenancy if it is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house.

(3) A notice is not valid for the purposes of paragraph (1)(b) unless it complies with the requirements of regulations made by the Department.

(4) The Department may by order direct that paragraph (1) shall have effect, either generally or in relation to any area specified in the order, as if sub-paragraph (c) were omitted.

(5) If a protected tenancy is granted after the coming into operation of this Order—

- (a) for such a term certain as is mentioned in paragraph (1), to be followed, at the option of the tenant, by a further term; or
- (b) for such a term certain and thereafter from year to year or some other period;

and satisfies the conditions stated in that paragraph, the tenancy is a protected shorthold tenancy until the end of the term certain.

#### *Right of tenant to terminate protected shorthold tenancy*

93.—(1) A protected shorthold tenancy may be brought to an end (by virtue of this Article and notwithstanding anything in the terms of the tenancy) before the expiry of the term certain by notice in writing of the appropriate length given by the tenant to the landlord; and the appropriate length of the notice is—

- (a) one month if the term certain is two years or less; and
- (b) three months if it is more than two years.

(2) Any agreement relating to a protected shorthold tenancy (whether or not contained in the instrument creating the tenancy) shall be void in so far as it purports to impose any penalty or disability on the tenant in the event of his giving a notice under this Article.

#### *Subletting or assignment*

94.—(1) Where the whole or part of a dwelling-house let under a protected shorthold tenancy has been sublet at any time during the continuous period specified in paragraph (3), and, during that period, the landlord becomes entitled, as against the tenant, to possession of the dwelling-house, he shall also be entitled to possession against the sub-tenant and Article 19 of the 1978 Order shall not apply.

(2) A protected shorthold tenancy of a dwelling-house and any protected tenancy of the same dwelling-house granted during the continuous period specified in paragraph (3) shall not be capable of being assigned, except in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978.

(3) The continuous period mentioned in paragraphs (1) and (2) is the period beginning with the grant of the protected shorthold tenancy and continuing until either—

- (a) no person is in possession of the dwelling-house as a protected or statutory tenant; or
- (b) a protected tenancy of the dwelling-house is granted to a person who is not, immediately before the grant, in possession of the dwelling-house as a protected or statutory tenant.

*Orders for possession*

95.—(1) The following Case shall be added to the Cases in Part II of Schedule 4 to the 1978 Order (mandatory orders for possession):

*“Case 17*

Where the dwelling-house was let under a protected shorthold tenancy (or is treated under Article 95 of the Housing (Northern Ireland) Order 1983 as having been so let) and—

- (a) there either has been no grant of a further tenancy of the dwelling-house since the end of the protected shorthold tenancy or, if there was such a grant, it was to a person who immediately before the grant was in possession of the dwelling-house as a protected or statutory tenant; and
- (b) the proceedings for possession were commenced after appropriate notice by the landlord to the tenant and not later than three months after the expiry of the notice.

A notice is appropriate for this Case if—

- (i) it is in writing and states that proceedings for possession under this Case may be brought after its expiry; and
- (ii) it expires not earlier than three months after it is served and, if at the time of service the tenancy is a periodic tenancy, not earlier than the date by which that periodic tenancy could be brought to an end by a notice to quit served by the landlord on the same day;
- (iii) it is served—
  - (a) in the period of three months immediately preceding the date on which the protected shorthold tenancy comes to an end; or
  - (b) if that date has passed, in the period of three months immediately preceding any anniversary of that date; and
- (iv) in a case where a previous notice has been served by the landlord on the tenant in respect of the dwelling-house, and that notice was an appropriate notice, it is served not earlier than three months after the expiry of the previous notice.”

(2) If, in proceedings for possession under Case 17, the court is of opinion that, notwithstanding that the condition of paragraph (1) (b) or (c) of Article 92 is not satisfied, it is just and equitable to make an order for possession, it may treat the tenancy under which the dwelling-house was let as a protected shorthold tenancy.

*Amendments of 1978 Order*

*Protected tenancies*

96.—(1). For paragraph (2) of Article 3 of the 1978 Order (protected tenancies) there shall be substituted the following paragraphs—

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'(2) This paragraph applies to a dwelling-house let by an unregistered housing association if, immediately before the commencement of Part V of the Housing (Northern Ireland) Order 1983, this Order applied to such a dwelling-house, or would have so applied if the landlord had not been an unregistered housing association.

(2A) In paragraph (2) "unregistered housing association" means a housing association, as defined in Article 114 of the Housing (Northern Ireland) Order 1981, which is not registered under Article 124 of that Order.'

(2) In paragraph (7) of Article 5 of the 1978 Order—

(a) for sub-paragraph (e) there shall be substituted the following sub-paragraph—

"(e) an unregistered housing association, within the meaning of paragraph (2A) of Article 3, if paragraph (2) of that Article does not apply to the dwelling-house;"

(b) in sub-paragraph (f), after the word "society" there shall be inserted the words, "other than a housing association".

(3) In Article 7 of the 1978 Order, after paragraph (3) there shall be added the following paragraph—

"(4) A protected or statutory tenancy to which Article 3 (2) applies shall be deemed to be a regulated tenancy for the purposes of this Order."

(4) In Article 8 of the 1978 Order, after paragraph (7) there shall be added the following paragraphs—

"(8) In the application of this Article to a protected or statutory tenancy which, by virtue of Article 7 (4), is deemed to be a regulated tenancy for the purposes of this Order, paragraph (1) shall have effect as if for the reference to the commencement of this Order there were substituted a reference to the commencement of the Housing (Northern Ireland) Order 1983.

(9) Where a restricted rent certificate takes effect in relation to a dwelling-house, the tenancy of which is deemed, by virtue of Article 7 (4) to be a regulated tenancy—

(a) the tenancy shall no longer be deemed to be a regulated tenancy and shall become a restricted tenancy; and

(b) the rent recoverable for any rental period from the tenant under the restricted tenancy shall, notwithstanding anything in any agreement, not exceed the rent which was recoverable for the last such period immediately before the commencement of the Housing (Northern Ireland) Order 1983."

*Proceedings for possession of certain dwelling-houses*

97. In Article 14 of the 1978 Order (which gives the court an extended discretion in actions for possession of certain dwelling-houses) for paragraph (3) there shall be substituted the following paragraph—

"(3) On any such adjournment as is referred to in paragraph (1) or any such stay, suspension or postponement as is referred to in paragraph (2), the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any)

and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.”.

*Change in condition of dwelling-houses, etc.*

98. For Article 31 of the 1978 Order there shall be substituted the following Article—

*“Application for determination of appropriate rent following change in condition of dwelling-houses, etc.*

31.—(1) Notwithstanding anything in paragraph (1) of Article 27, the landlord or the statutory tenant under a regulated tenancy of a dwelling-house may apply to a rent assessment committee to determine an appropriate rent for that dwelling-house under that Article at any time if there has been such a change in the circumstances relating to the dwelling-house or tenancy, or in the manner in which the Executive assesses the rents of houses let by it, as to make the registered rent no longer an appropriate rent.

(2) For the purposes of paragraph (1) but without prejudice to its generality, failure to comply with a certificate of disrepair within the period allowed by the district council which issued it shall constitute a change of circumstances relating to the dwelling-house or tenancy.

(3) Where the landlord or tenant of a dwelling-house let under a regulated tenancy is of the opinion that the registered rent, or the amount of increase provided for by an order under Article 33 (2), does not properly reflect any obligation as to the repair or care of the premises expressly provided for in the contract of tenancy, he may apply to a rent assessment committee to determine an appropriate rent for that dwelling-house under Article 27.”.

*Enforcement of certificates of disrepair*

99. In Article 48 of the 1978 Order (Enforcement, etc., of certificates of disrepair)—

(a) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Where—

(a) under Article 46 a certificate of disrepair has been served, or is deemed to have been served, on the landlord of a dwelling-house, and

(b) it appears to the district council that the landlord is residing outside Northern Ireland,

a summons for the purposes of an application to a court of summary jurisdiction under paragraph (1) shall be deemed to be duly served on the landlord if it is served in accordance with sub-paragraph (a) or (b) of Article 73 (1).”;

(b) after paragraph (3) there shall be added the following paragraph—

“(3A) Where a summons for the purposes of an application to a court of summary jurisdiction under paragraph (1) has been served in accordance with paragraph (1A), a person shall not be convicted of an offence under paragraph (3) if he shows that he did not know of the service of that summons.”;

- (c) in paragraph (5) after the word "may" there shall be inserted the words, "without prejudice to any other method of recovery,".

*Meaning of "premium" in Part VIII of the 1978 Order*

100. In Article 53 (1) of the 1978 Order (Interpretation of Part VIII) for the definition of "premium", there is substituted the following definition—  
"premium" includes—

- (a) any fine or other like sum;
- (b) any other pecuniary consideration in addition to rent; and
- (c) any sum paid by way of a deposit, other than one which does not exceed one-sixth of the annual rent and is reasonable in relation to the potential liability in respect of which it is paid.'.

*Entry to carry out works to certain premises*

101.—(1) In Article 63 of the 1978 Order (which provides for the inspection, etc. of certain premises), after paragraph (2) there shall be inserted the following paragraphs—

"(2A) Subject to paragraphs (2B) and (2C), where—

- (a) the landlord under a restricted tenancy wishes to carry out such works as are specified in a statement issued by a district council under paragraph (2) of Article 9 (works necessary to enable dwelling-house to meet the regulated tenancy standards); and
- (b) the works cannot be carried out without the consent of the tenant, but the tenant is unwilling to give his consent;

the landlord may apply to the county court for an order empowering him, or a person authorised by him, to enter the dwelling-house and carry out the works.

(2B) An order under paragraph (2A) may be made subject to such conditions as to—

- (a) the time at which the works are to be carried out; and
- (b) any provision to be made for the accommodation of the tenant and his household,

as the court may think fit.

(2C) In determining whether to make such an order and, if it is made, what (if any) conditions it should be subject to, the court shall have regard to all the circumstances and in particular to—

- (a) any disadvantage to the tenant that might be expected to result from the works;
- (b) the accommodation that might be available for him whilst the works are carried out; and
- (c) the age and health of the tenant;

but the court shall not take into account the means and resources of the tenant."

(2) In Article 69 (1) of the 1978 Order, after sub-paragraph (c) insert the following sub-paragraph—

- "(d) as to whether a landlord should be empowered to enter a dwelling-house under Article 63 (2A)."



*Ascertainment of landlord's identity by district council*

102. In paragraph (2) of Article 73 of the 1978 Order (which deals with the service of notices, etc.), for the words from the beginning to "dwelling-house" there shall be substituted—

"If—

- (a) the tenant under a private tenancy of a dwelling-house, or
- (b) a district council for the purposes of enabling it to perform any of its functions under this Order,".

*Amendment of Cases 11 and 12 of Schedule 4 to the 1978 Order*

103.—(1) In Case 11 in Schedule 4 to the 1978 Order (dwelling-house required by a person who was owner-occupier at time of letting) for sub-paragraph (c) of paragraph (1) there shall be substituted the following sub-paragraph—

"(c) the court is of the opinion that of the conditions set out in Part V of this Schedule one of those in sub-paragraphs (a) and (c) to (f) of paragraph (2) is satisfied."

(2) For Case 12 in Schedule 4 to the 1978 Order (dwelling-house required for use by owner on his retirement) there shall be substituted the following Case—

*"Case 12*

Where the owner intends to occupy the dwelling-house as his residence at such time as he might retire from regular employment and has let it on a protected tenancy before he has so retired and—

- (a) not later than the commencement of the protected tenancy the owner gave notice in writing to the tenant that possession might be recovered under this Case;
- (b) the dwelling-house has not, since the commencement of the Housing (Northern Ireland) Order 1983, been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (a) was not satisfied; and
- (c) the court is of the opinion that of the conditions set out in Part V one of those in sub-paragraphs (b) to (e) of paragraph (2) is satisfied.

If the court is of the opinion that, notwithstanding that the conditions in paragraphs (a) and (b) are not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of those paragraphs, as the case may require."

(3) Subject to paragraphs (4) and (5), Cases 11 and 12, as amended by this Article, apply to tenancies granted before, as well as those granted after, the coming into operation of this Order; and nothing in this Article invalidates a notice that possession might be recovered under Case 11 which was duly given to a tenant before then.

(4) Paragraphs (a) and (b) of Case 12, as substituted by this Article, do not apply to tenancies granted before the coming into operation of this Order.

(5) Paragraph (2) (c) and (d) of Part V of Schedule 4 to the 1978 Order (as set out in Part I of Schedule 9) do not apply to Case 11 if the tenancy was granted, and the owner died, before the coming into operation of this Order; and paragraph (2) (d) does not apply to Case 12 in any such case.

*Lettings by servicemen*

104. The following Case shall be added to the Cases in Part II of Schedule 4 to the 1978 Order (mandatory orders for possession) after the Case inserted in Part II by Article 95—

*“Case 18*

Where the dwelling-house was let by a person (in this Case referred to as “the owner”) at any time after the commencement of the Housing (Northern Ireland) Order 1983 and—

- (a) at the time when the owner acquired the dwelling-house he was a member of the regular armed forces of the Crown;
- (b) at the commencement of that tenancy the owner was a member of the regular armed forces of the Crown;
- (c) not later than the commencement of that tenancy the owner gave notice in writing to the tenant that possession might be recovered under this Case;
- (d) the dwelling-house has not, since the commencement of the said Order of 1983, been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (c) was not satisfied; and
- (e) the court is of the opinion that—
  - (i) the dwelling-house is required as a residence for the owner; or
  - (ii) of the conditions set out in Part V of this Schedule one of those in paragraphs (c) to (f) is satisfied.

If the court is of the opinion that, notwithstanding that the condition in paragraph (c) or (d) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of these paragraphs, as the case may require.

For the purposes of this Case “regular armed forces of the Crown” has the same meaning as in section 1 of the Northern Ireland Assembly Disqualification Act 1975.”.

*Other amendments of 1978 Order*

105.—(1) There shall be inserted in Schedule 4 to the 1978 Order, as a new Part V, the provisions set out in Part I of Schedule 9; and in Article 13 of that Order (which, among other things, introduces Schedule 4) there shall be added, at the end, the following paragraph—

“(5) Part V of Schedule 4 shall have effect for the purpose of setting out the conditions which are relevant to Cases 11, 12 and 18 of that Schedule.”.

(2) The amendments to the 1978 Order, which are set out in Part II of Schedule 9, shall have effect.

PART VI

SUPPLEMENTAL

*Regulations and orders*

106.—(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 the provisions of this Order.

(2) Regulations, other than those made under Article 21, 28 (2) (a) or 92 (3), and orders other than those mentioned in paragraph (3), shall be subject to negative resolution.

(3) Orders under Part III and under Article 92 (4) shall be subject to affirmative resolution.

(4) Orders under Articles 52 (9) and 54 (6) require the consent of the Department of Finance and Personnel.

#### *Amendments*

107. The statutory provisions mentioned in Schedule 10 shall have effect subject to the amendments set out there.

#### *Savings, transitional provisions and revocations*

108. Subject to the savings and transitional provisions set out in Schedule 11, the statutory provisions mentioned in Schedule 12 are revoked to the extent shown in the third column of that Schedule.

*N. E. Leigh,*  
Clerk of the Privy Council.

## SCHEDULES

Article 5 (2).

### SCHEDULE 1

#### EXCEPTIONS TO RIGHT TO BUY

##### PART I

##### CIRCUMSTANCES IN WHICH RIGHT DOES NOT ARISE

1. The dwelling-house is one of a group of dwelling-houses which has been provided with facilities (including a call system and the services of a warden) specially designed for the needs of disabled persons or persons of pensionable age.

2. The Executive has, on receiving service of a notice claiming to exercise the right to buy the dwelling-house, applied to the Department for a determination under this paragraph, and the Department has determined that the right to buy is not to be capable of being exercised with respect to the dwelling-house; and the Department shall so determine if satisfied—

(a) that the dwelling-house is designed or specially adapted for occupation by persons of pensionable age; and

(b) that it is the practice of the Executive to let it only for occupation by such persons.

##### PART II

##### CIRCUMSTANCES IN WHICH RIGHT CANNOT BE EXERCISED

1. The tenant is obliged to give up possession of the dwelling-house in pursuance of an order of the court, or will be so obliged at a date specified in such an order.

2. A bankruptcy petition is pending or a receiving order is in force against the person or one of the persons to whom the right to buy belongs or he is an undischarged bankrupt or has made a composition or arrangement with his creditors the terms of which remain to be fulfilled.

TENANCIES WHICH ARE NOT SECURE TENANCIES

*Long leases*

1. A tenancy is not a secure tenancy if—
- (a) it is a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture; or
  - (b) it is a tenancy created by an equity-sharing lease within the meaning of Article 31 (6) of the principal Order.

*Premises occupied under contract of employment*

2.—(1) A tenancy is not a secure tenancy if the tenant is an employee of the landlord and his contract of service requires him to occupy the dwelling-house for the better performance of his duties.

(2) In sub-paragraph (1) "contract of service" means a contract of service or apprenticeship, whether express or implied and (if express) whether oral or in writing.

*Land acquired for development*

3. A tenancy is not a secure tenancy if the dwelling-house is on land which has been acquired for development (within the meaning of Article 11 of the Planning (Northern Ireland) Order 1972 (a)) and the dwelling-house is used by the landlord, pending development of the land, as temporary housing accommodation.

*Temporary letting to person seeking accommodation*

4. A tenancy is not a secure tenancy if the dwelling-house is let by the landlord expressly on a temporary basis to a person moving into an area to take up employment there, and for the purpose of enabling him to seek accommodation in the area.

*Short-term arrangements*

5. A tenancy is not a secure tenancy if—
- (a) the dwelling-house has been leased to the landlord with vacant possession for use as temporary housing accommodation;
  - (b) the terms on which it has been leased include provision for the lessor to obtain vacant possession from the landlord on the expiry of a specified period or when required by the lessor;
  - (c) the lessor is not a body which is capable of granting secure tenancies; and
  - (d) the landlord has no interest in the dwelling-house other than under the lease in question or as mortgagee.

*Temporary accommodation during works*

6. A tenancy is not a secure tenancy if—
- (a) the dwelling-house has been made available for occupation by the tenant or his predecessor in title while works are carried out on the dwelling-house which he previously occupied as his home; and
  - (b) the tenant (or his predecessor in title) was not a secure tenant of that other dwelling-house at the time when he ceased to occupy it as his home.

*Licensed premises*

7. A tenancy is not a secure tenancy if the dwelling-house consists of or comprises premises licensed for the sale of intoxicating liquor for consumption on the premises.

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(a) S.I. 1972/1634 (N.I. 17).

*Business tenancies*

8. A tenancy is not a secure tenancy if it is one to which Part I of the Business Tenancies Act (Northern Ireland) 1964 (a) applies.

SCHEDULE 3

Articles 29, 42 (3) and 47.

GROUNDS FOR POSSESSION OF DWELLING-HOUSES LET UNDER SECURE TENANCIES

PART I

GROUNDS ON WHICH COURT MAY ORDER POSSESSION

*Ground 1*

Any rent lawfully due from the tenant has not been paid or any obligation of the tenancy has been broken or not performed.

*Ground 2*

The tenant or any person residing in the dwelling-house has been guilty of conduct which is a nuisance or annoyance to neighbours, or has been convicted of using the dwelling-house or allowing it to be used for immoral or illegal purposes.

*Ground 3*

The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any person residing in the dwelling-house and, in the case of any act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

In this paragraph "the common parts" means any part of a building comprising the dwelling-house, and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling-houses let by the landlord.

*Ground 4*

The condition of any relevant furniture has deteriorated owing to ill-treatment by the tenant or any person residing in the dwelling-house and, in the case of any ill-treatment by a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

In this paragraph "relevant furniture" means any furniture provided by the landlord for use under the tenancy or for use in any of the common parts (within the meaning given in Ground 3).

*Ground 5*

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by the tenant.

*Ground 6*

The dwelling-house was made available for occupation by the tenant or his predecessor in title while works were carried out on the dwelling-house which he previously occupied as his only or principal home and—

- (a) he (or his predecessor in title) was a secure tenant of that other dwelling-house at the time when he ceased to occupy it as his home;
- (b) he (or his predecessor in title) accepted the tenancy of the dwelling-house of which possession is sought on the understanding that he would give up occupation when, on completion of the works, the other dwelling-house was again available for occupation by him under a secure tenancy; and
- (c) the works have been completed and the other dwelling-house is so available.

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(a) 1964 c. 36 (N.I.).

*Ground 7*

The landlord intends, within a reasonable time of obtaining possession of the dwelling-house—

- (a) to demolish or reconstruct the building or part of the building comprising the dwelling-house; or
- (b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house;

and cannot reasonably do so without obtaining possession of the dwelling-house.

*Ground 8*

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of a kind provided by the dwelling-house and—

- (a) there is no longer such a person residing in the dwelling-house; and
- (b) the landlord requires it for occupation (whether alone or with other members of his family) by such a person.

*Ground 9*

The dwelling-house is let by a registered housing association which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing; and—

- (a) either there is no longer such a person residing in the dwelling-house or the tenant has received from the Executive an offer of accommodation in premises which are to be let as a separate dwelling under a secure tenancy; and
- (b) the association requires the dwelling-house for occupation (whether alone or with other members of his family) by such a person.

*Ground 10*

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and—

- (a) a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs;
- (b) there is no longer a person with those special needs residing in the dwelling-house; and
- (c) the landlord requires the dwelling-house for occupation (whether alone or with other members of his family) by a person who has those special needs.

*Ground 11*

The accommodation afforded by the dwelling-house is more extensive than is reasonably required by the tenant and—

- (a) the tenancy vested in the tenant, by virtue of Article 26, on the death of the previous tenant;
- (b) the tenant was qualified to succeed by virtue of paragraph (2) (b) of that Article; and
- (c) notice of the proceedings for possession was served under Article 28 more than six months, but less than twelve months, after the date of the previous tenant's death.

PART II

SUITABILITY OF ACCOMMODATION

1.—(1) For the purposes of Chapter II of Part II of this Order, accommodation is suitable if it consists of premises—

- (a) which are to be let as a separate dwelling under a secure tenancy, or
- (b) which are to be let as a separate dwelling under a protected tenancy (other than one of a kind mentioned in sub-paragraph (2)) within the meaning of the Rent (Northern Ireland) Order 1978,

and, in the opinion of the court, the accommodation is reasonably suitable to the needs of the tenant and his family.

(2) The kind of protected tenancy referred to in sub-paragraph (1) is one under which the landlord might recover possession of the dwelling-house under one of the Cases in Part II of Schedule 4 to the said Order of 1978 (cases where court must order possession).

2. In determining whether it is reasonably suitable to those needs regard shall be had to—

- (a) the nature of the accommodation which it is the practice of the landlord to allocate to persons with similar needs;
- (b) the distance of the accommodation available from the place of work or education of the tenant and of any members of his family;
- (c) its distance from the home of any member of the tenant's family if proximity to it is essential to that member's or the tenant's well-being;
- (d) the needs (as regards extent of accommodation) and means of the tenant and his family;
- (e) the terms on which the accommodation is available and the terms of the secure tenancy;
- (f) if any furniture was provided by the landlord for use under the secure tenancy, whether furniture is to be provided for use in the other accommodation and, if it is, the nature of that furniture.

3. Where the dwelling-house is let by a registered housing association, a certificate of the Executive certifying that it will provide suitable accommodation for the tenant by a date specified in the certificate shall be conclusive evidence that suitable accommodation will be available for him by that date.

Articles 59, 62(3),  
63 (6) and 66 (2).

SCHEDULE 4

STANDARD AMENITIES

PART I

*List of Amenities and Maximum Eligible Amounts*

<i>Item</i>	<i>Description of Amenity</i>	<i>Maximum eligible amount</i> £
1	A fixed bath or shower	340
2	A hot and cold water supply at a fixed bath or shower	430
3	A wash-hand basin	130
4	A hot and cold water supply at a wash-hand basin	230
5	A sink	340
6	A hot and cold water supply at a sink	290
7	A water closet	515

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 5

Article 75 (2).

SCHEDULE TO BE INSERTED AS SCHEDULE 7A TO PRINCIPAL ORDER

“SCHEDULE 7A

Article 109.

HOUSES IN MULTIPLE OCCUPATION:  
MEANS OF ESCAPE FROM FIRE

*Exercise of powers of Executive*

1. If it appears to the Executive that a house in multiple occupation is not provided with such means of escape from fire as the Executive considers necessary the Executive may exercise such of its powers under this Schedule as appear to it most appropriate; and it shall do so if the house is of such description or occupied in such manner as the Department may by order specify.

*Powers available to Executive*

- 2.—(1) The Executive may serve a notice on any person on whom a notice may be served under Article 107 (1) specifying the works which in the opinion of the Executive are required to provide the necessary means of escape from fire.  
(2) Paragraphs (3) and (4) of Article 107 shall apply in relation to a notice under sub-paragraph (1) in the same manner as they apply to a notice under that Article.
3. If it appears to the Executive that the means of escape from fire would be adequate if part of the house were not used for human habitation, the Executive may secure that that part is not so used.
4. The Executive may secure that part of the house is not used for human habitation and serve a notice under paragraph 2 specifying such works only as in the opinion of the Executive are required to provide the means of escape from fire which will be necessary if that part is not so used.
5. For the purpose of securing that a part of the house is not used for human habitation the Executive may, if after consultation with any person appearing to it to be an owner of the house, accept an undertaking from him that that part will not be used for human habitation without the permission of the Executive.
6. If the Executive does not accept an undertaking under paragraph 5 with respect to a part of the house, or if, in a case where it has accepted such an undertaking, that part of the house is at any time used in contravention of the undertaking, the Executive may make a closing order with respect to that part of the house.

*Enforcement*

7. Any person who, knowing that an undertaking has been accepted under paragraph 5, uses the part of the house to which the undertaking relates in contravention of the undertaking, or permits that part of the house to be so used, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 and to a further fine of £5 for every day, or part of a day, on which he so uses it or permits it to be so used, after conviction.



*Consultation with Fire Authority*

8. The Executive shall, before serving a notice, accepting an undertaking or making a closing order under this Schedule, consult with the Fire Authority for Northern Ireland.

*Exclusion of protection under Rent  
(Northern Ireland) Order 1978*

9. Nothing in the Rent (Northern Ireland) Order 1978 shall prevent possession being obtained of any part of a house which, in accordance with any undertaking in pursuance of this Schedule, cannot for the time being be used for human habitation.

*Application of Chapter II of Part III*

10. Chapter II of Part III shall apply to a closing order made under this Schedule as it applies to a closing order under Article 38 (1), but the ground on which, under Article 39 (1), the Executive is required to determine the order shall be that it is satisfied that the means of escape from fire with which the house is provided is adequate (owing to a change of circumstances) and will remain adequate if the part of the house with respect to which the order was made is again used for human habitation.”

Article 80.

SCHEDULE 6

AMENDMENT AND EXTENSION OF ARTICLES 128 AND 129 OF PRINCIPAL ORDER

*Appointment of persons to conduct inquiries*

1. After paragraph (1) of Article 128 insert the following paragraph—

“(1A) No person who is, or at any time has been, an officer of the Department shall be appointed to conduct an inquiry under paragraph (1).”

*Duty of agents to give information*

2.—(1) In paragraph (2) of Article 128 after “officer” insert “agent”.

(2) At the end of Article 128 add the following paragraph—

“(8) In paragraph (2) “agent” includes banker, solicitor and auditor; but nothing in this Article requires disclosure—

(a) by a solicitor, of any privileged communication made to him in his capacity of a solicitor; or

(b) by a housing association’s bankers, of any information as to the affairs of any of their other customers.’

*Suspension of committee members and others*

3. In Article 129—

(a) after sub-paragraph (a) of paragraph (1) insert the following sub-paragraph—

“(aa) by order suspend such a person for up to six months, pending determination whether he should be removed;”;

(b) after paragraph (1) insert the following paragraph—

“(1A) Where a person is suspended, the Department may give directions with respect to the performance of his functions and otherwise as to matters arising from the suspension.”;

(c) after paragraph (3) insert the following paragraph—

“(3A) A person appointed under Article 129 (3) as a member of the committee or a trustee of a housing association shall be entitled—

(a) to attend, speak and vote at any general meeting of the association and to receive all notices of and other communications relating to any general meeting which a member of the association is entitled to receive; and

(b) to require a general meeting of the association to be convened within 21 days of a request to that effect made in writing to the committee or the trustees of the association.”;

(d) in paragraph (5) after "paragraphs (1) (a) or (2)" insert "or suspended under paragraph (1) (aa)".

*Proceedings for an offence*

4. In paragraph (7) of Article 129, after "the consent of" insert "the Director of Public Prosecutions for Northern Ireland or".

SCHEDULE 7

Article 82.

PAYMENTS TO CERTAIN COMMITTEE MEMBERS AND OTHERS, ETC.

*Provisions substituted for paragraphs (3) to (7)  
of Article 134 of the principal Order*

"(3) The Department may specify the maximum amounts which may be paid by a registered housing association—

- (a) by way of fees or other remuneration or by way of expenses to a member of the association who is not a member of its committee or an officer or employee of the association;
  - (b) by way of expenses to a member of its committee who is not an officer or employee of the association; or
  - (c) by way of expenses to an officer of the association who does not have a contract of employment with the association.
- (4) Different amounts may be specified under paragraph (3) for different purposes.
- (5) Where a registered housing association—
- (a) pays any sum or makes any gift in breach of paragraph (1); or
  - (b) pays to any person a sum which exceeds any maximum amount specified in relation to that person under paragraph (3);

the sum or, as the case may be, the value of the gift or, in a case falling within sub-paragraph (b), the amount by which the sum exceeds the maximum shall be recoverable by the association; and proceedings for its recovery shall be taken by the association if the Department gives the association a direction to that effect.

(6) For the purposes of paragraph (3) (b) and Article 135, a person co-opted by the committee of a registered housing association to serve on the committee (whether he is a member of the association or not) shall be treated as a member of the committee."

*Provision substituted for Article 135 of the principal Order*

*"Payments and grant of benefits by registered housing associations*

135.—(1) Subject to paragraph (5), a registered housing association shall not make any payment or grant any benefit to—

- (a) a person who is, or at any time within the relevant period has been, a committee member, officer or employee of the association;
- (b) a close relative of such a person; or
- (c) a business trading for profit in which a person falling within sub-paragraph (a) has a personal interest.

(2) In paragraph (1) (a), "the relevant period" means the period of 12 months immediately preceding the making of the payment or the grant of the benefit.

(3) For the purposes of paragraph (1) (c), a person has a personal interest in a business if he, or a close relative of his, either is one of the principal proprietors of the business or is directly concerned with its management.

(4) Any sum paid, or the value of any benefit granted, by a registered housing association in breach of paragraph (1) shall be recoverable by the association; and proceedings for its recovery shall be taken by the association if the Department gives it a direction to that effect.

(5) This Article does not apply to—

- (a) any payment made or benefit granted by a registered housing association to an officer or employee under his contract of employment with the association;

- (b) any payment of expenses made by such an association to a member of its committee;
- (c) any payment to which, by virtue of paragraph (2) of Article 134, paragraph (1) of that Article does not apply;
- (d) any payment of expenses to which Article 134 (3) (c) applies; or
- (e) the grant or renewal of a tenancy of a house.

(6) No sum shall be recoverable under this Article in respect of a payment made or a benefit granted by a registered housing association in a case where an obligation to make the payment or grant the benefit was incurred by the association before the coming into operation of the Housing (Northern Ireland) Order 1983.’’.

Article 83.

SCHEDULE 8

AMENDMENTS OF CHAPTER III OF PART VII OF PRINCIPAL ORDER

*Housing association grants*

1. In Article 137 (housing association grants)—

(a) after paragraph (2) insert the following paragraph—

“(2A) The Department may pay housing association grant under this Article to a registered housing association in cases where the association—

(a) disposes of a house as one dwelling;

(b) divides a house into two or more separate dwellings and disposes of them;  
or

(c) combines two houses to form one dwelling and disposes of it;

after carrying out works of repair, improvements or conversion’’; and

(b) for paragraph (4) substitute the following paragraph—

“(4) The Department may, with the consent of the Department of Finance and Personnel, determine—

(a) maximum levels of cost or of grant applicable to housing projects generally, to any particular housing project or to any description of housing project;

(b) the maximum amount of grant which may be paid in a case of the kind mentioned in paragraph (2A),

and the amount of housing association grant payable in respect of a project or case to which any such determination applies shall be limited in accordance with the determination.’’.

2.—(1) In paragraph (1) of Article 138—

(a) after the words “the project is completed” where they occur in sub-paragraphs

(a) and (b) insert the words “or its completion has become impossible’’; and

(b) for the words “before the project is completed” substitute the words “at an earlier time’’.

(2) For paragraph (3) of Article 138 there are substituted the following paragraphs—

“(3) If, after the making of a housing association grant to a registered housing association—

(a) any land to which the grant relates has been disposed of by the association in any manner;

(b) any condition imposed under paragraph (2) has not been complied with; or

(c) the Department is satisfied that any land to which the grant relates has ceased to be used, or to be available for use, for the purpose for which, at

the time the project concerned was approved, it was intended that it should be used;

the Department may reduce the amount of, or of any payment in respect of, the grant or suspend or discontinue any instalment of it or, where any payment has been made to the association in respect of the grant, direct the association to pay to the Department an amount equal to the whole, or such proportion as the Department may determine, of the amount so paid to the association.

(3A) Any amount which a registered housing association is directed to repay to the Department under paragraph (3) shall be recoverable as a simple contract debt in any court of competent jurisdiction.”.

#### *Revenue deficit grants*

3. In Article 139 (revenue deficit grants)—

(a) in paragraph (1), omit the word “annual” and for the words “an accounting year of the association” substitute the words “any period”;

(b) in paragraph (2)—

(i) in the words preceding the sub-paragraphs, for the words from “in respect of” to “association” substitute the words “to a registered housing association in respect of any period”;

(ii) in sub-paragraph (a) for the words from “in respect of that year” to “end of that year” substitute the words “in respect of that period is made by the association to the Department not later than 15 months after the end of that period”; and

(iii) in sub-paragraph (c) for the words “accounting year” there is substituted the word “period”;

(c) for paragraph (3) substitute the following paragraph—

“(3) For the purposes of this Article, a registered housing association shall be treated as incurring a deficit on its revenue account for any period, if—

(a) its expenditure for that period which, in the opinion of the Department, is attributable to its housing activities and is reasonable and appropriate, having regard to all the circumstances; exceeds

(b) the income which, in the opinion of the Department, it might reasonably be expected to receive for that period in respect of its housing activities, including sums by way of grant or subsidy under any statutory provision other than this Article; and for this purpose—

(i) an association’s housing activities are any of its activities not relating to hostels; and

(ii) an association’s expenditure and income shall be calculated in such manner as the Department may, with the consent of the Department of Finance and Personnel, determine.”;

(d) in paragraph (4) for the words “accounting year” substitute the word “period” and for the words “that year” the words “that period”; and

(e) in paragraph (5) for the words “accounting year”, in both places, substitute the word “period”.

#### *Hostel deficit grants*

4. In Article 140 (hostel deficit grants)—

(a) in paragraph (1) for the words “an accounting year of the association” substitute the words “any period”;

(b) in paragraph (2) for the words from “any accounting year” to “end of that year” substitute the words “any period unless an application in respect of that period is made by the association to the Department not later than 15 months after the end of that period”;

- (c) in paragraph (3)—
  - (i) in the words preceding the sub-paragraphs, for the words “an accounting year of the association” substitute the words “any period”; and
  - (ii) in sub-paragraphs (a) and (b) for the word “year”, wherever it occurs, substitute the word “period”;
- (d) in paragraph (4) for the words “accounting year of the association” substitute the word “period” and for the words “that year” the words “that period”;
- (e) in paragraph (5) for the words “accounting year” substitute the word “period” and for the words “that year” the words “that period”; and
- (f) in paragraph (6) for the words “accounting year”, in both places, substitute the word “period” and omit the words “before the expiry of that year”.

Article 105.

SCHEDULE 9

AMENDMENTS OF 1978 ORDER

PART I

AMENDMENT OF SCHEDULE 4 TO 1978 ORDER

The following new Part is inserted at the end of Schedule 4 to the 1978 Order (grounds for possession of dwelling-houses let on or subject to protected or statutory tenancies)—

Part V

*Provisions applying to Cases 11, 12 and 18*

1. In this Part of this Schedule—
  - “mortgage” includes a charge;
  - “owner” means, in relation to Case 11, the owner-occupier; and
  - “successor in title” means any person deriving title from the owner, other than a purchaser for value or a person deriving title from a purchaser for value.
2. The conditions referred to in paragraph (1)(c) of Case 11, in paragraph (c) of Case 12 and in paragraph (e) (ii) of Case 18 are that—
  - (a) the dwelling-house is required as a residence for the owner or any member of his family who resided with the owner when he last occupied the dwelling-house as a residence;
  - (b) the owner has retired from regular employment and requires the dwelling-house as a residence;
  - (c) the owner has died and the dwelling-house is required as a residence for a member of his family who was residing with him at the time of his death;
  - (d) the owner has died and the dwelling-house is required by a successor in title as his residence or for the purpose of disposing of it with vacant possession;
  - (e) the dwelling-house is subject to a mortgage, made by deed and granted before the tenancy, and the mortgagee—
    - (i) is entitled to exercise a power of sale conferred on him by the mortgage or by section 19 of the Conveyancing Act 1881 (a); and
    - (ii) requires the dwelling-house for the purpose of disposing of it with vacant possession in exercise of that power; and
  - (f) the dwelling-house is not reasonably suitable to the needs of the owner, having regard to his place of work, and he requires it for the purpose of disposing of it with vacant possession and of using the proceeds of that disposal in acquiring, as his residence, a dwelling-house which is more suitable to those needs.

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(a) 1881 c. 41.

PART II

OTHER AMENDMENTS OF 1978 ORDER

1. In Article 2 (2), in the definition of "registered", for the words "Part III of the Housing (Northern Ireland) Order 1976" substitute the words "Part VII of the Housing (Northern Ireland) Order 1981".

2. In Articles 5 (6) (b) and 8 (5), for the words "section 30 of the Planning and Housing Act (Northern Ireland) 1931", in each place substitute the words "Article 41 of the Housing (Northern Ireland) Order 1981".

3. In Article 9 (2) for the words from "a written statement" to the end substitute the following words—

"a written statement—

(a) of its reasons for the refusal; and (where appropriate)

(b) of the works which, in its opinion, would be necessary to enable the dwelling-house to meet those standards."

4. In Article 27 (1) for the words "within four weeks" substitute the words "at any time".

5. In Article 48 (8), in the definition of "repairs grant" for "1976" substitute "1983".

6. In each of the following provisions, namely, Articles 16 (1), 18 (1), 23 (4) and (5), 37 (4) and (5), 39 (2), 48 (3), 60 (4), 73 (3) and paragraph 2 (2) of Schedule 6, for the words "a fine not exceeding £400" substitute the words "a fine not exceeding £500".

7. In Schedule 3 (regulated tenancy standards) number the existing provision as paragraph 1 and at the end add the following paragraph—

"2.—(1) A dwelling-house shall be deemed to satisfy the standards set out in sub-paragraphs (g) and (h) of paragraph 1 in so far as it is not so defective in those respects as to be rendered unfit under Article 46 of the Housing (Northern Ireland) Order 1981.

(2) For the purposes of determining whether a dwelling-house which receives, or is capable of receiving, a supply of electricity or gas, meets the standard set out in paragraph (j) (but without prejudice to the generality of that paragraph), the condition of any installations for the supply of electricity or gas shall be taken into account.

(3) In paragraph (2) "installations" include any lines, pipes, fittings and meters installed for the purposes of or in connection with the supply of electricity or gas, but do not include any apparatus or appliances designed for making use of such supply."

8. In Schedule 4, in paragraph 2 of Part IV—

(a) at the end of sub-paragraph (a) insert the words "(other than one under which the landlord might recover possession of the dwelling-house under one of the Cases in Part II of this Schedule)"; and

(b) at the end of sub-paragraph (b) insert the words "of a kind mentioned in sub-paragraph (a)".

9. In Schedule 5;

(a) in paragraph 2 omit the words from "and, if the Department" to the end; and  
(b) for paragraph 3 substitute—

"3. The Department shall nominate one person on the panel to act as rent officer and may nominate another person on the panel to act as deputy rent officer."

10. In Schedule 7—

(a) in paragraphs 3 and 4 (1) omit the words "of Finance" in each place; and

(b) in paragraph 4(1) for the words "that Department" substitute the words "the Department".

Article 107.

SCHEDULE 10

AMENDMENTS

*The Building Societies Act (Northern Ireland) 1967 c. 31 (N.I.)*

In section 26 (3), after the word "arrangement" insert the words "(not being such a guarantee as is mentioned in paragraph 3 of Schedule 3)".

In Schedule 3—

(a) in paragraph 3 (1) for the words "local authorities or the Housing Corporation" substitute the word "bodies"; and

(b) after paragraph 14 add the following paragraph—

"15. An agreement under Article 156 of the Housing (Northern Ireland) Order 1981 (agreement by the Northern Ireland Housing Executive to indemnify building society in respect of mortgagor's default)."

*The Land Registration Act (Northern Ireland) 1970 c. 18 (N.I.)*

In Schedule 11 (matters requiring to be registered in the Statutory Charges Register) after paragraph 37 add the following paragraph—

"37A. Any grant condition attached by virtue of Article 69 of the Housing (Northern Ireland) Order 1983 to any house in respect of which a grant has been paid under Part III of that Order."

*The Land Acquisition and Compensation (Northern Ireland) Order 1973  
S.I. 1973/1896 (N.I. 21)*

In paragraph (9) of Article 30—

(a) in the definition of "housing order", at the end add the words "or a closing order under paragraph 6 of Schedule 7A to the Housing (Northern Ireland) Order 1981"; and

(b) in the definition of "undertaking", at the end add the words "or an undertaking accepted under paragraph 5 of Schedule 7A to the Housing (Northern Ireland) Order 1981".

In paragraph (1) of Article 39—

(a) for the words "another such dwelling" there shall be substituted the words "another dwelling, whether or not that dwelling also belongs to the Housing Executive"; and

(b) in sub-paragraph (b) of that paragraph, after the word "may" there shall be inserted the words "subject to such conditions as the Department of the Environment may specify".

*The principal Order*

In Articles 14 (2), 36 (3) and 40, in each provision for "£200" substitute "£1,000".

In Article 24—

(a) at the beginning insert the words—

"(1) Subject to paragraph (2),"; and

(b) at the end add the following paragraph—

"(2) Paragraph (1) does not apply to any tenancy which is a secure tenancy within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983."

In Articles 25 and 26, in each Article after paragraph (3) insert the following paragraph—

"(4) This Article does not apply to a secure tenancy within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983."

After Article 26 insert the following Article—

**HOUSING (NI) ORDER 1983**  
**SI 1983/1118 (NI 15)**

*"Length of notice to quit under Executive tenancies"*

26A. A notice by the Executive or by a tenant of the Executive to quit a house let (whether before or after the coming into operation of the Housing (Northern Ireland) Order 1983) under a tenancy shall not be valid unless it is given not less than four weeks before the date on which it is to take effect."

In Articles 104 (1) (a), 105 (1) and 107 (1), for the words from "which is" to "household", in each place where they occur substitute the words "in multiple occupation".

In Article 108 (1) for the words from "occupied by persons" to "household" substitute the words "in multiple occupation".

In Article 118—

(a) at the beginning insert the words—

"(1) Subject to paragraph (2),"; and

(b) at the end add the following paragraph—

"(2) Paragraph (1) does not apply to any tenancy which is a secure tenancy within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983."

For Article 119 substitute the following Article—

*"Rents"*

119.—(1) Subject to paragraph (2), the rent to be charged for any housing accommodation provided by a registered housing association shall be such amount as may be determined by the Department.

(2) Paragraph (1) does not apply to any housing accommodation provided under a co-ownership tenancy, that is to say a tenancy—

(a) granted by a registered housing association whose rules restrict membership to persons who are tenants or prospective tenants, and preclude the granting or assignment of tenancies to persons other than members; and

(b) under which the tenant (or his personal representatives) either by virtue of the tenancy agreement or the agreement under which he became a member of the association may be entitled on ceasing to be a member of the association to a sum calculated by reference, directly or indirectly, to the value of the house of which he is a tenant.

(3) Article 26 shall apply to registered housing associations and their tenants in the same manner as it applies to the Executive and its tenants."

After Article 120 insert the following Article—

*"Tenancy agreements, etc."*

120A. Articles 25 and 26A shall apply to registered housing associations and their tenants in the same manner as they apply to the Executive and its tenants."

In Articles 128 (3) and 129 (7), in each provision for "£500" substitute "£1,000".

In Article 134 (2) (cases in which payments may be made by registered housing associations to members) in sub-paragraph (b) (iii) after "person" insert "under his tenancy agreement with the association or".

**SCHEDULE 11**

**Article 108.**

**SAVINGS AND TRANSITIONAL PROVISIONS**

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 repeal by this Order of Chapter I of Part IV of the principal Order—

(a) where, before the date of the coming into operation of this Order, the Executive received an application for a repairs grant in respect of a house erected on or after 31st December 1956, nothing in Article 67 (2) shall operate to prohibit the approval of such application;

(b) where, before the date of the coming into operation of this Order, the Executive—

(i) received an application for an intermediate or a repairs grant relating to a house the net annual value of which is less than £60 and in respect of which a district council has issued a regulated rent certificate under Article 9 of the Rent (Northern Ireland) Order 1978,

(ii) but approves the application after that date, the percentage specified in Article 68 (3) of the principal Order shall apply in relation to such a grant.

3. In sub-paragraph (1) "reconditioning grant" means a grant under section 7 of the Housing on Farms Act (Northern Ireland) 1972.

**REVOCATIONS**

Number	Title	Extent of Revocation
S.I. 1978/1050. (N.I.20).	The Rent (Northern Ireland) Order 1978.	In Article 3 (1) the words "immediately after that commencement". In Schedule 5, in paragraph 2 the words from "and, if the Department" to the end. In Schedule 7, in paragraphs 3 and 4 (1) the words "of Finance" in each place.
S.I. 1981/156 (N.I. 3).	The Housing (Northern Ireland) Order 1981.	Article 7 (3). Chapter I of Part IV. Article 138 (5). In Article 139, in paragraph (1) the word "annual", and paragraph (6). In Article 140 (6) the words "before the expiry of that year". Schedule 5. Schedule 12, paragraph 2.
S.R. 1981/157.	The Housing (Improvement Grants) Order (Northern Ireland) 1981.	The whole Order.
S.R. 1982/83.	The Housing (Intermediate and Repairs Grants) Order (Northern Ireland) 1982.	The whole Order.
S.R. 1982/369.	The Housing (Intermediate and Repairs Grants) (Amendment) Order (Northern Ireland) 1982.	The whole Order.
S.R. 1983/88.	The Housing (Improvement, Intermediate and Repairs Grants) Order (Northern Ireland) 1983.	The whole Order.

EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order amends the law relating to housing in Northern Ireland.

Part I is introductory. Part II provides security of tenure and other rights for certain tenants of the Northern Ireland Housing Executive and of registered housing associations and gives certain secure tenants of the Executive the right to buy their homes. In Part III fresh provision is made for payment by the Executive of grants for carrying out works of improvement, repair and conversion to houses.

Part IV amends certain provisions of the Housing (Northern Ireland) Order 1981 which relate to houses in multiple occupation, registered housing associations and other miscellaneous matters. Part V provides for the creation of protected shorthold tenancies and amends the Rent (Northern Ireland) Order 1978. Part VI is supplemental.