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STATUTORY INSTRUMENTS

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**1986 No. 1301**

**The Housing (Northern Ireland) Order 1986**

**PART II**

*Housing Defects*

*Miscellaneous and Supplemental*

**Dwellings included in more than one designation**

**13.**—(1) For the purposes of this Part, where a person is already eligible for assistance in respect of a defective dwelling at a time when a further designation comes into operation, being a designation of a class within which the building that consists of or includes the dwelling falls, that designation is to be disregarded in his case if either—

- (a) he would not be eligible for assistance in respect of the defective dwelling if it were the only designation, or
- (b) he is entitled to assistance by way of repurchase in respect of the defective dwelling.

(2) Where a person is eligible for assistance in respect of a defective dwelling and the building that consists of or includes the dwelling falls within two or more designations, being designations which are not required to be disregarded in his case (in this paragraph referred to as “applicable designations”), then, in relation to the dwelling, this Part (except Article 4) shall have effect as if—

- (a) references to the designation by virtue of which it is a defective dwelling were references to any applicable designation,
- (b) references to the qualifying defect were references to any qualifying defect described in any applicable designation,
- (c) references to the period within which persons may seek assistance under this Part were references to any period specified for that purpose in any applicable designation, and
- (d) the reference in paragraph 1(1)(c) of Schedule 1 to the maximum amount permitted to be taken into account for the purposes of that paragraph were a reference to the sum of those maximum amounts for each applicable designation.

(3) In any case where—

- (a) notice has been given to a person at any time under Article 7(1) stating that he is, in the opinion of the Executive, eligible for assistance in respect of a defective dwelling, and
- (b) the building that consists of or includes the dwelling falls within a class designated under Article 4 by a designation coming into operation after that time,

the Executive shall, as soon after that time as it is reasonably practicable to do so, give him notice in writing stating whether or not in its opinion the designation referred to in sub-paragraph (b) is to be disregarded in his case; and if, in the opinion of the Executive, it is to be disregarded, the reasons for its view.

(4) Paragraphs (5) to (8) apply in any case where—

(a) a person is entitled to assistance by way of reinstatement grant in respect of a defective dwelling at a time when a designation under Article 4 comes into operation, being a designation of a class within which the building that consists of or includes the dwelling falls (in this and the following paragraphs referred to as the “later designation”), and

(b) the later designation is not required to be disregarded in his case.

(5) Where it becomes apparent to the Executive that this paragraph applies in the case of any person, it shall forthwith give him notice in writing—

(a) stating the effect of paragraph (2) and paragraph (6) and of the further designation, and

(b) informing him that he has the right to make a claim under Article 6(5).

(6) Where it becomes apparent to the Executive that this paragraph applies in the case of any person, it shall as soon as it is reasonably practicable to do so—

(a) make a further determination under Article 6(2) (taking account of the later designation), and

(b) give a further notice under Article 7(2) in place of the previous notice,

and where the determination is that he is entitled to assistance by way of repurchase, the notice shall state the effect of paragraphs (7) and (8).

(7) Where a further notice under Article 7(2) stating that a person is entitled to assistance by way of repurchase is given in place of a previous notice and either—

(a) he satisfies the Executive that he has, before the further notice is received, entered into a contract with another to provide services or materials for the purpose of executing any of the work stated in the previous notice or in a notice under paragraph 3 of Schedule 1 (in this paragraph and paragraph (8) referred to as the “relevant work”), or

(b) any of the relevant work has been carried out before the further notice is received and has been carried out to the satisfaction of the Executive,

then, notwithstanding anything in paragraph (6), the previous notice and any notice under paragraph 3 of that Schedule given before the further notice is received shall continue to have effect for the purposes of Article 8 and Schedule 1 in relation to the relevant work or, in a case falling within sub-paragraph (b), in relation to so much of the relevant work as has been carried out as mentioned in that sub-paragraph; and the Executive shall, subject to paragraph (8), pay reinstatement grant accordingly.

(8) In any case where—

(a) the relevant work is not completed but part of that work is carried out to the satisfaction of the Executive,

(b) the notice in question continues to have effect in relation to that part of the work by virtue of paragraph (7), and

(c) that part of the work is carried out within the period stated in the notice in question,

paragraph 5 of Schedule 1 shall not apply in relation to reinstatement grant paid in respect of that part of the work and the amount payable in respect of that part of the work shall be an amount equal to the maximum instalment of grant that would have been payable under paragraph 4 of that Schedule in respect of that part of the work.

## Notices

**14.**—(1) The Executive shall, within the period of 3 months beginning with the coming into operation of a designation or a variation of such a designation—

- (a) publish in more than one newspaper a notice suitable for the purpose of bringing the effect of the designation or variation to the attention of persons who may be eligible for assistance in respect of dwellings to which the designation applies; and
  - (b) in the case of persons appearing to the Executive likely to be eligible for assistance in respect of those dwellings, take such other steps as are reasonably practicable to inform them of the fact that assistance is available.
- (2) If at any time it becomes apparent to the Executive that a person is likely to be eligible for assistance in respect of a defective dwelling, it shall forthwith take such steps as are reasonably practicable to inform him of the fact that assistance is available.
- (3) A relevant body shall, where a person is to acquire a relevant interest in a defective dwelling on a disposal by that body, give him notice in writing before the time of disposal—
- (a) specifying the qualifying defect, and
  - (b) stating that he will not be eligible for assistance under this Part in respect of the dwelling.
- (4) A relevant body shall, before it conveys a relevant interest in a defective dwelling in pursuance of a contract to any person on whom a notice under paragraph (3) has not been served, give him notice in writing—
- (a) specifying the qualifying defect,
  - (b) stating, where the time of disposal of the interest falls after the cut-off date, that he will not be eligible for assistance under this Part, and
  - (c) stating the effect of paragraph (5).
- (5) A person on whom a notice under paragraph (4) is served—
- (a) shall have the right to withdraw from the transaction and may, within the period of 6 months beginning with the service of that notice on him, exercise that right by notifying the relevant body in writing of his withdrawal, whereupon the parties to the contract shall be discharged from any obligations in connection with it and any deposit paid shall be repaid; and
  - (b) shall not, in any event, be obliged to complete the conveyance before the expiry of the period referred to in sub-paragraph (a).

*Para. (6) rep. by 1992 NI 15*

(7) The notice under paragraph (3)<sup>F1</sup> . . . or paragraph (4) is to be served at the earliest date at which it is reasonably practicable to do so.

**F1** 1992 NI 15

### **Reinstatement of defective dwelling by the Executive**

**15.** Where a relevant interest in a defective dwelling has been disposed of by a relevant body, then (without prejudice to any of its other powers) the Executive may before the end of the period within which a person may seek assistance under this Part in respect of the dwelling enter into an agreement with any person holding an interest in the dwelling to execute at his expense any of the work required to reinstate the dwelling.

### **Jurisdiction of county court**

**16.—(1)** Subject to Articles 4(6) and 10(7) and paragraph 3 of Schedule 2, a county court has jurisdiction to determine any question arising under this Part and to entertain any proceedings brought in connection with the performance or discharge of any obligations so arising, including

proceedings for the recovery of damages or compensation in the event of the obligations not being performed.

(2) The jurisdiction conferred by this Article includes jurisdiction to entertain proceedings on any question so arising notwithstanding that no other relief is sought than a declaration.

(3) Where the Executive is required by Article 8(5) or 9(6) to extend or further extend any period and 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.

### **Modification of this Part in relation to equity-sharing leases**

17.—<sup>F2</sup>(1) If it appears to the Executive that the interest of a person eligible for assistance in respect of a defective dwelling is—

- (a) an equity-sharing lease, or
- (b) the freehold acquired under the terms of an equity-sharing lease,

the Executive shall prepare and submit to the Department a scheme providing for the provisions of this Part to have effect, in their application to such a case, subject to such modifications as may be specified in the scheme.

(2) A scheme under paragraph (1) shall not have effect unless approved by the Department; and any such approval may be made conditional on compliance with requirements specified by the Department.]

<sup>F3</sup>(4) In this Article “equity-sharing lease” means—

- (a) an equity-sharing lease as defined in Article 31(6) of the Order of 1981;
- (b) a lease of a description specified in the regulations; or
- (c) a lease determined, or falling within a class<sup>F2</sup> or description] determined, by the Department to be an equity-sharing lease;

but where a lease becomes an equity-sharing lease by virtue of regulations under this Article or a determination under sub-paragraph (c), that shall not affect the operation of the provisions of this Part in relation to a person who is eligible for assistance in respect of a defective dwelling if application for assistance in respect of the dwelling has previously been made by him under Article 6.

**F2** 1992 NI 15

**F3** power of the Department to make regulations shall cease to have effect, 1992 NI 15

### **Application of this Part in relation to mortgagees**

18.—(1) The Department may by regulations make provision for the purpose of conferring rights and obligations on any mortgagee of a defective dwelling where—

- (a) a power of sale (whether conferred by section 19 of the Conveyancing Act 1881 or otherwise) is exercisable by the mortgagee, and
- (b) the mortgagor is eligible for assistance in respect of the defective dwelling.

(2) The rights that may be conferred on a mortgagee by regulations under this Article are—

- (a) rights corresponding to those conferred by this Part on a person holding a relevant interest in the defective dwelling,
- (b) the right to require the Executive to acquire in accordance with the regulations any interest in the defective dwelling to be disposed of in exercise of the power of sale, and
- (c) where the mortgagee is the Executive, the right by deed to vest the dwelling in itself,

and the rights that may be so conferred may be conferred in place of any rights conferred on any other person by this Part.

(3) Regulations under this Article may provide that, where the conditions in paragraph (1)(a) and (b) are or have been satisfied, this Part, the power of sale in question and any enactment relating to the power of sale shall have effect subject to such modifications as may be specified in the regulations.

(4) Where a defective dwelling is vested in a mortgagee in pursuance of regulations under this Article, the regulations may provide for the payment in respect of the vesting of an amount calculated on the assumption that none of the defective dwellings to which the designation in question relates are affected by the qualifying defect.

(5) In this Article “mortgagee” and “mortgagor” have the same meaning as in the Conveyancing Act 1881.

### **Repurchase of defective dwellings disposed of by housing associations**

**19.—**(1) Where the Executive—

- (a) gives a notice under Article 7(2) to any person stating that he is entitled to assistance by way of repurchase in respect of a defective dwelling; and
- (b) is of the opinion that there has at any time been a disposal of a relevant interest in the dwelling by a housing association or by a housing association which was a predecessor of that association;

it shall forthwith give to the housing association a notice in writing (together with a copy of the notice referred to in sub-paragraph (a)) stating that the association may acquire in accordance with this Part the interest of the person entitled to assistance.

(2) A housing association notified under paragraph (1) may, within the period of four weeks beginning with the service of the notice, give notice in writing to the Executive—

- (a) stating that the association wishes to acquire the interest, and
- (b) specifying the address of the principal office of the association and any other address that may also be used as an address for service.

(3) Where the Executive receives a notice under paragraph (2), it shall forthwith give to the person entitled to assistance notice in writing (in the following provisions of this Article referred to as a “transfer notice”) of—

- (a) the contents of the notice under paragraph (2), and
- (b) the effects of paragraphs (4) and (5).

(4) The housing association concerned shall, at any time after the transfer notice is given, be treated as being responsible (in place of the Executive) for the purposes of anything done or falling to be done under this Part by or in relation to the Executive.

(5) Where a transfer notice has been given in respect of an interest—

- (a) a request under Article 9(1) in respect of the interest may be made either to the Executive or to the housing association concerned, and
- (b) such a request made to the Executive (whether before or after the transfer notice is given) shall be forwarded by it to the housing association concerned.

**Changes to legislation:**

There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1986, Cross Heading: Miscellaneous and Supplemental.