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STATUTORY INSTRUMENTS

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**2003 No. 412**

**The Housing (Northern Ireland) Order 2003**

**PART III**

**GRANTS, &c. FOR RENEWAL OF PRIVATE SECTOR HOUSING**

**CHAPTER I**

**INTRODUCTORY**

**Interpretation of Part III**

**28.—(1)** In this Part—

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“elderly” means aged 60 years or over;

“house in multiple occupation” has the same meaning as in Part IV of the Order of 1992;

“housing action area” has the same meaning as in Article 2(2) of the Order of 1981;

“improvement” includes alteration and enlargement;

“owner”, in relation to a dwelling, has the meaning given by Article 32, and, in relation to a house in multiple occupation, has the same meaning as in Article 2 of the Order of 1981;

“owner’s interest”, in relation to any premises, means—

(a) a freehold estate in possession (whether legal or equitable), or

(b) an interest under a tenancy granted or extended for a term of years of which not less than 10 years remain unexpired at the date of the application,

whether held by the applicant alone or jointly with others;

“partner”, in relation to a person, means that person’s spouse or a person other than a spouse with whom he or she lives as husband or wife;

“rack rent” means a rent which is not less than two-thirds of the net annual value of the dwelling, or a rent which has been fixed in accordance with the [Rent \(Northern Ireland\) Order 1978 \(NI 20\)](#);

“relevant authority” means the authority for the area in which the dwelling or building is situated; and references to an authority and to the area of an authority shall be construed in accordance with paragraphs (2), (3) and (4) of Article 2 of the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#);

“tenancy” includes a sub-tenancy and an agreement for a tenancy or sub-tenancy;

“tenant” includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

(2) Subject to paragraph (3) a tenancy is a long tenancy for the purposes of this Part 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 a notice given by or to the tenant or by re-entry, forfeiture or otherwise; or
  - (b) it is a tenancy granted under an equity-sharing lease within the meaning of Article 31(6) of the Order of 1981.
- (3) A tenancy is not a long tenancy for those purposes if it is an interest created by way of security and liable to termination by the exercise of a right of redemption or otherwise.
- (4) In this Part references to a person being connected with the owner of a dwelling shall be construed in accordance with Article 31.

### *Interpretation*

#### **Meaning of “reasonable repair”**

**29.** In determining for the purposes of this Part what is “reasonable repair”, in relation to a dwelling, house or building, the Executive—

- (a) shall have regard to the age and character of the dwelling, house or building and the locality in which it is situated, and
- (b) shall disregard the state of internal decorative repair.

#### **Fitness for human habitation**

**30.**—(1) Article 46 of the Order of 1981 (fitness for human habitation) applies for the purposes of this Part as it applies for the purposes of that Order.

(2) In deciding whether it is satisfied that the carrying out of the relevant works is the most satisfactory course of action in a case where the house or dwelling concerned is unfit for human habitation, the Executive shall have regard to any guidance given under Article 46A of the Order of 1981 and Article 115.

For that purpose the Executive shall treat any guidance given in respect of the serving of a repair notice under Article 41(1) of the Order of 1981 as guidance given in respect of the completion of the relevant works.

#### **Meaning of “connected persons”**

**31.** For the purposes of this Part a person is connected with the owner for the time being of a dwelling if—

- (a) in a case where personal representatives or trustees are the owner, he is a person who under the will or intestacy or, as the case may be, under the terms of the trust concerned is beneficially entitled to an interest in the dwelling or to the proceeds of sale of the dwelling;
- (b) in any other case, he is a member of the family of the owner.

#### **Meaning of “owner” of dwelling**

**32.** In this Part “owner”, in relation to a dwelling—

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

- (b) is not himself liable as lessee of the dwelling, or of property which includes the dwelling, to pay such a rent to a superior landlord.

### **Disabled persons**

**33.** For the purposes of this Part “disabled person” has the same meaning as in the Disability Discrimination Act 1995 (c. 50).

## CHAPTER II THE MAIN GRANTS

### *Introductory*

### **Interpretation of Chapter II**

**34.—(1)** In this Chapter—

“common parts”, in relation to a building, includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more flats in the building;

“common parts application”, in relation to an application for a disabled facilities grant, means an application in respect of works to the common parts of a building containing one or more flats;

“conversion application”—

- (a) in relation to an application for a renovation grant, means an application in respect of works required for the provision of one or more dwellings by the conversion of a house or other building, and
- (b) in relation to an application for an HMO grant, means an application for a grant in respect of works for the provision of a house in multiple occupation by the conversion of a house or other building;

“flat”, in relation to a building, means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building.

(2) In this Chapter the expressions listed below are defined by or otherwise fall to be construed in accordance with the provisions of this Chapter indicated—

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certificate of future occupation (in relation to an application for an HMO grant)	Article 57(2)
certificate of intended letting (in relation to an application for a renovation grant)	Article 41(3)
certified date	Article 75(3)(b)
common parts grant	Article 35(3)
disabled facilities grant	Article 35(4)
disabled occupant	Article 51
eligible works	Article 65(2)(a)
estimated expense	Article 65(2)
exempt disposal	Article 85

grant (without more)	Article 35(6)
grant condition	Article 75(1)
grant condition period	Article 75(3)(a)
HMO grant	Article 35(5)
landlord's application (in relation to a common parts grant)	Article 46(1) and (2)
occupying tenant (in relation to an application for a common parts grant)	Article 45(2)
owner-occupation certificate (in relation to an application for a renovation grant)	Article 41(2)
owner's application	
–in relation to a renovation grant	Article 40(1) and (2)
–in relation to a disabled facilities grant	Article 50(1) and (2)
owner's certificate (in relation to an application for a disabled facilities grant)	Article 52(2)
participating landlord (in relation to a tenants' application for a common parts grant)	Article 46(4)
preliminary or ancillary services and charges	Article 36(4)
qualifying owner's interest	
–in relation to an application for a renovation grant	Article 40(4)
–in relation to an application for a disabled facilities grant	Article 50(4)
–in relation to an application for an HMO grant	Article 56(3)
qualifying tenant	
–in relation to an application for a renovation grant	Article 40(5)
–in relation to an application for a disabled facilities grant	Article 50(4)
relevant disposal	Article 84
relevant works (in relation to a grant application)	Article 36(2)(a)
renovation grant	Article 35(2)
tenant (and expressions relating to tenancies)	
–in the context of a tenant's application for a renovation grant	Article 40(6)
–in the context of a certificate of intended letting	Article 41(4)
–in the context of an application for a common parts grant	Article 45(2)
–in the context of an application for a disabled facilities grant	Article 50(5)

tenant's application

–in relation to a renovation grant Article 40(1) and (2)

–in relation to a disabled facilities grant Article 50(1) and (2)

tenants' application (in relation to a common parts grant) Article 46(1) and (2)

tenant's certificate

–for the purposes of an application for a renovation grant Article 42(2)

–for the purposes of an application for a disabled facilities grant Article 53(2)

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### **Grants for improvements and repairs, &c.**

**35.**—(1) Grants are available from the Executive in accordance with this Chapter towards the cost of works required for—

- (a) the improvement or repair of dwellings, houses in multiple occupation or the common parts of buildings containing one or more flats,
- (b) the provision of dwellings or houses in multiple occupation by the conversion of a house or other building, and
- (c) the provision of facilities for disabled persons in dwellings and in the common parts of buildings containing one or more flats.

(2) A grant relating to—

- (a) the improvement or repair of a dwelling, or
- (b) the provision of dwellings by the conversion of a house or other building,

is referred to as a “renovation grant”.

(3) A grant relating to the improvement or repair of the common parts of a building is referred to as a “common parts grant”.

(4) A grant for the provision of facilities for a disabled person—

- (a) in a dwelling, or
- (b) in the common parts of a building containing one or more flats,

is referred to as a “disabled facilities grant”.

(5) A grant for—

- (a) the improvement or repair of a house in multiple occupation, or
- (b) the provision of a house in multiple occupation by the conversion of a house or other building,

is referred to as an “HMO grant”.

(6) In the following provisions of this Chapter the expression “grant”, without more, means any of these types of grant.

### **Applications for grants**

**36.**—(1) No grant shall be paid unless an application for it is made to the Executive in accordance with the provisions of this Chapter and is approved by it.

(2) An application for a grant shall be in writing and shall specify the premises to which it relates and contain—

- (a) particulars of the works in respect of which the grant is sought (in this Chapter referred to as the “relevant works”);
- (b) subject to paragraph (3), an estimate from a contractor acceptable to the Executive (see Article 69) of the cost of carrying out the relevant works;
- (c) particulars of any preliminary or ancillary services and charges in respect of the cost of which the grant is also sought; and
- (d) such other particulars as the Department may direct.

(3) The Executive may in any particular case direct that an application shall contain estimates from different contractors acceptable to it.

(4) In this Chapter “preliminary or ancillary services and charges”, in relation to an application for a grant, means services and charges which—

- (a) relate to the application and the preparation for and the carrying out of works, and
- (b) are specified for the purposes of this paragraph by the Department.

#### *Preliminary conditions*

#### **Ineligible applicants**

**37.—**(1) No grant is payable under this Chapter unless the applicant is aged 18 or over on the date of the application.

In the case of a joint application, any applicant under the age of 18 years on the date of the application shall be left out of account.

(2) No grant is payable under this Chapter if the applicant is of a description excluded from entitlement to grant aid by regulations made by the Department.

(3) Regulations under paragraph (2) may proceed wholly or in part by reference to the provisions relating to entitlement to housing benefit, or any other form of assistance, as they have effect from time to time.

#### **The age of the property**

**38.—**(1) The Executive shall not entertain an application for a grant in respect of premises provided (by construction or conversion) less than 10 years before the date of the application unless—

- (a) the application is for a disabled facilities grant, or
- (b) the application is for an HMO grant in respect of a house in multiple occupation provided by conversion.

(2) The Department may by order amend paragraph (1) so as to substitute another period for that specified.

#### **Excluded descriptions of works**

**39.—**(1) No grant is payable in respect of works of a description excluded from grant aid under this Chapter by direction of the Department.

(2) Directions may specify descriptions of works for which grant aid is not to be available without the Department’s consent.

(3) The Department may give any such consent with respect to applications generally or to a particular description of application.

### *Renovation grants*

#### **Renovation grants: owner’s applications and tenant’s applications**

**40.**—(1) The Executive shall not entertain an application for a renovation grant unless it is satisfied—

- (a) that the applicant has, or proposes to acquire, an owner’s interest in every parcel of land on which the relevant works are to be carried out, or
- (b) in the case of an application other than a conversion application, that the applicant is a qualifying tenant of the dwelling (alone or jointly with others) but does not have, or propose to acquire, an owner’s interest in the dwelling.

(2) References in this Chapter to an “owner’s application” or a “tenant’s application”, in relation to a renovation grant, shall be construed accordingly.

(3) In accordance with directions given by the Department, the Executive may treat the condition in paragraph (1)(a) as met by a person who has, or proposes to acquire, an owner’s interest in only part of the land concerned.

(4) References in this Chapter to “a qualifying owner’s interest”, in relation to an application for a renovation grant, are to an owner’s interest meeting the condition in paragraph (1)(a) or treated by virtue of paragraph (3) as meeting that condition.

(5) In this Chapter a “qualifying tenant”, in relation to an application for a renovation grant, means a person who (alone or jointly with others) is a tenant of the premises to which the application relates—

- (a) who—
  - (i) is required by the terms of his tenancy to carry out the relevant works,
  - (ii) who signed an agreement in respect of the tenancy before the day appointed for the coming into operation of this Article,and whose tenancy is not of a description excluded from this paragraph by an order of the Department, or
- (b) whose tenancy is of a description specified for the purposes of this paragraph by order of the Department.

(6) In paragraph (5) “tenant” includes a person having a licence to occupy the premises concerned which satisfies such conditions as may be specified by order of the Department.

References in this Chapter to tenants and other expressions relating to tenancies, in the context of a tenant’s application for a renovation grant, shall be construed accordingly.

#### **Renovation grants: certificates required in case of owner’s application**

**41.**—(1) The Executive shall not entertain an owner’s application for a renovation grant unless it is accompanied by an owner-occupation certificate or a certificate of intended letting in respect of the dwelling to which the application relates or, in the case of a conversion application, in respect of each of the dwellings to be provided.

- (2) An “owner-occupation certificate” certifies that the applicant—
  - (a) has or proposes to acquire a qualifying owner’s interest, and

- (b) intends that throughout the grant condition period he or a member of his family will live in the dwelling as his (or that member's) only or main residence.
- (3) A “certificate of intended letting” certifies that the applicant—
  - (a) has or proposes to acquire a qualifying owner’s interest, and
  - (b) intends that throughout the grant condition period the dwelling will be let or available for letting as a residence (and not for a holiday) to a person who is not connected with the owner for the time being of the dwelling.

In sub-paragraph (b) “letting” does not include a letting on a long tenancy.

- (4) In paragraph (3) references to letting include the grant of a licence to occupy premises.

References in this Chapter to tenants and other expressions relating to tenancies, in the context of a certificate of intended letting, shall be construed accordingly.

### **Renovation grants: certificates required in case of tenant’s application**

**42.—**(1) The Executive shall not entertain a tenant’s application for a renovation grant unless it is accompanied by a tenant’s certificate.

- (2) A “tenant’s certificate” certifies—
  - (a) that the applicant is a qualifying tenant of the dwelling, and
  - (b) that he or a member of his family intends to live in the dwelling as his (or that member's) only or main residence.

(3) Except where the Executive considers it unreasonable in the circumstances to seek such a certificate, the Executive shall not entertain a tenant’s application for a renovation grant unless it is also accompanied by a certificate of intended letting (see Article 41(3)) by the person who at the time of the application is the landlord under the tenancy.

### **Renovation grants: purposes for which grant may be given**

**43.—**(1) The purposes for which an application for a renovation grant, other than a conversion application, may be approved are the following—

- (a) to comply with a notice under Article 41 of the Order of 1981 (repair notices) or otherwise to render a dwelling fit for human habitation;
- (b) to put the dwelling in reasonable repair;
- (c) to provide adequate facilities for space heating;
- (d) to provide satisfactory internal arrangements;
- (e) to provide means of escape in case of fire or other fire precautions, not being precautions required under or by virtue of any statutory provision (whenever made);
- (f) to ensure that the dwelling complies with such requirements with respect to construction or physical condition as may be specified by the Department;
- (g) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the dwelling as are so specified;
- (h) any other purpose for the time being specified for the purposes of this Article by order of the Department.

(2) The purpose for which a conversion application may be approved is to provide one or more dwellings by the conversion of a house or other building.

(3) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1) or (2), the Executive may, with the



consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to it to be necessary for that purpose.

(4) The reference in sub-paragraph (e) of paragraph (1) to precautions required under or by virtue of a statutory provision does not include precautions required to comply with a notice under Article 80 of the Order of 1992 (notice requiring execution of works to render house in multiple occupation fit for number of occupants) so far as it relates to premises which are not part of a house in multiple occupation for the purposes of this Part.

(5) In exercise of the powers conferred by sub-paragraphs (f) and (g) of paragraph (1) the Department may specify requirements generally or for particular cases.

### **Renovation grants: approval of application**

44.—(1) The Executive may approve an application for a renovation grant if it thinks fit, subject to the following provisions.

(2) The Executive shall not approve an application for a renovation grant unless it is satisfied that the works are necessary for one or more of the purposes set out in Article 43(1) or (2).

(3) Where the Executive entertains an owner's application for a renovation grant made by a person who proposes to acquire a qualifying owner's interest, it shall not approve the application until it is satisfied that he has done so.

(4) Where the Executive proposes to approve an application for a renovation grant, it shall consider whether the premises to which the application relates are fit for human habitation.

(5) If it appears to the Executive that the premises are not fit for human habitation, the Executive shall not approve the application unless it is satisfied—

- (a) that on completion of the relevant works, together with any other works proposed to be carried out, the premises will be fit for human habitation;
- (b) that there are satisfactory financial and other arrangements for carrying out those works, and
- (c) that the carrying out of the works is the most satisfactory course of action.

(6) In considering whether to approve an application for a renovation grant the Executive shall have regard to the expected life of the building (taking account, where appropriate, of the effect of carrying out the works).

### *Common parts grants*

### **Common parts grants: occupation of flats by occupying tenants**

45.—(1) The Executive shall not entertain an application for a common parts grant unless it is satisfied that at the date of the application at least the required proportion of the flats in the building concerned is occupied by occupying tenants.

(2) In this Chapter an "occupying tenant", in relation to a flat in a building, means a person who has in relation to the flat (alone or jointly with others)—

- (a) a protected tenancy,
- (b) a statutory tenancy, or
- (c) a tenancy or licence which satisfies such conditions as may be specified by order of the Department,

and who occupies the flat as his only or main residence.

References in this Chapter to other expressions relating to tenancies, in the context of an application for a common parts grant, shall be construed accordingly.

(3) The “required proportion” mentioned in paragraph (1) is three-quarters or such other proportion as may be—

- (a) specified for the purposes of this Article by an order of the Department, or
- (b) approved by the Department, in relation to a particular case or description of case, on application made by the Executive.

### **Common parts grants: landlord’s and tenants' applications**

**46.**—(1) The Executive shall not entertain an application for a common parts grant unless it is satisfied—

- (a) that the applicant has an owner’s interest in the building and has a duty or power to carry out the relevant works, or
- (b) that the application is made by at least three-quarters of the occupying tenants of the building who under their tenancies have a duty to carry out, or to make a contribution in respect of the carrying out of, some or all of the relevant works.

(2) References in this Chapter to a “landlord’s application” and a “tenants' application”, in relation to a common parts grant, shall be construed accordingly.

(3) In deciding whether the requirement in sub-paragraph (b) of paragraph (1) is met—

- (a) where a tenancy is held by 2 or more persons jointly, those persons shall be regarded as a single occupying tenant; and
- (b) a tenant whose tenancy is of a description specified for the purposes of that sub-paragraph by order of the Department shall be treated as an occupying tenant falling within that sub-paragraph.

(4) A person who has an owner’s interest in the building and who has a duty or power to carry out any of the relevant works may also join in a tenants' application for a common parts grant; and where such a person does join in an application, he is in this Chapter referred to as a “participating landlord”.

### **Common parts grants: certificates required to accompany application**

**47.**—(1) The Executive shall not entertain a landlord’s application for a common parts grant unless it is accompanied by a certificate signed by the applicant which—

- (a) specifies the interest of the applicant in the building, and
- (b) certifies that the required proportion of the flats in the building is occupied by occupying tenants.

(2) The Executive shall not entertain a tenants' application for a common parts grant unless it is accompanied by a certificate signed by each of the applicants which—

- (a) specifies the interest of each of the applicants in each flat in the building, and
- (b) certifies that the required proportion of the flats in the building is occupied by occupying tenants.

### **Common parts grants: purposes for which grant may be given**

**48.**—(1) The purposes for which an application for a common parts grant may be approved are—

- (a) to comply with a notice under Article 41 of the Order of 1981 (repair notices) or otherwise to cause the building to meet the requirements in Article 46(2) of that Order;

- (b) to comply with a notice under Article 80 of the Order of 1992 (notice requiring works to render premises fit for the number of occupants) or otherwise to enable the house to meet one or more of the requirements in paragraph (2) of that Article;
- (c) to provide adequate facilities for space heating;
- (d) to provide satisfactory internal arrangements;
- (e) to provide means of escape in case of fire or other fire precautions, not being precautions required under or by virtue of any statutory provision (whenever made);
- (f) to ensure that the building complies with such requirements with respect to construction or physical condition as may be specified by the Department;
- (g) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the building as are so specified;
- (h) any other purpose for the time being specified for the purposes of this Article by order of the Department.

(2) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1), the Executive may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to it to be necessary for that purpose.

(3) In exercise of the powers conferred by sub-paragraphs (f) and (g) of paragraph (1) the Department may specify requirements generally or for particular cases.

#### **Common parts grants: approval of application**

**49.**—(1) The Executive may approve an application for a common parts grant if it thinks fit, subject to the following provisions.

(2) The Executive shall not approve an application for a common parts grant unless it is satisfied that the works are necessary for one or more of the purposes set out in Article 48(1).

(3) Where the Executive proposes to approve an application for a common parts grant, the Executive shall consider whether the building to which the application relates meets the requirements mentioned in sub-paragraphs (a) to (e) of Article 46(2) of the Order of 1981.

(4) If it appears to the Executive that the building does not meet those requirements, the Executive shall not approve the application unless it is satisfied—

- (a) that on completion of the relevant works, together with any other works proposed to be carried out, the building will meet those requirements,
- (b) that there are satisfactory financial and other arrangements for carrying out those works, and
- (c) that the carrying out of the works is the most satisfactory course of action.

(5) In considering whether to approve an application for a common parts grant the Executive shall have regard to the expected life of the building (taking account, where appropriate, of the effect of carrying out the works).

#### *Disabled facilities grants*

#### **Disabled facilities grants: owner's and tenant's applications**

**50.**—(1) The Executive shall not entertain an application for a disabled facilities grant unless it is satisfied—

- (a) that the applicant has, or proposes to acquire, an owner's interest in every parcel of land on which the relevant works are to be carried out, or
  - (b) that the applicant is a tenant (alone or jointly with others)—
    - (i) in the case of an application in respect of works to a dwelling, of the dwelling, or
    - (ii) in the case of a common parts application, of a flat in the building,
 and, in either case, does not have or propose to acquire such an owner's interest as is mentioned in sub-paragraph (a).
- (2) References in this Chapter to an "owner's application" or a "tenant's application", in relation to a disabled facilities grant, shall be construed accordingly.
- (3) In accordance with directions given by the Department, the Executive may treat the condition in paragraph (1)(a) as met by a person who has, or proposes to acquire, an owner's interest in only part of the land concerned.
- (4) In this Chapter, in relation to an application for a disabled facilities grant—
- (a) "qualifying owner's interest" means an owner's interest meeting the condition in paragraph (1)(a) or treated by virtue of paragraph (3) as meeting that condition; and
  - (b) "qualifying tenant" means a tenant who meets the conditions in paragraph (1)(b).
- (5) In this Chapter "tenant", in relation to a disabled facilities grant, includes—
- (a) a person who has a protected tenancy or statutory tenancy,
  - (b) an employee (whether full-time or part-time) who occupies the dwelling or flat concerned for the better performance of his duties, and
  - (c) a person having a licence to occupy the dwelling or flat concerned which satisfies such conditions as may be specified by order of the Department,
- and other expressions relating to tenancies, in the context of an application for a disabled facilities grant, shall be construed accordingly.

#### **Disabled facilities grants: the disabled occupant**

**51.** In this Chapter the "disabled occupant", in relation to an application for a disabled facilities grant, means the disabled person for whose benefit it is proposed to carry out any of the relevant works.

#### **Disabled facilities grants: certificate required in case of owner's application**

**52.—**(1) The Executive shall not entertain an owner's application for a disabled facilities grant unless it is accompanied by an owner's certificate in respect of the dwelling to which the application relates or, in the case of a common parts application, in respect of each flat in the building occupied or proposed to be occupied by a disabled occupant.

(2) An "owner's certificate", for the purposes of an application for a disabled facilities grant, certifies that the applicant—

- (a) has or proposes to acquire a qualifying owner's interest, and
- (b) intends that the disabled occupant will live in the dwelling or flat as his only or main residence throughout the grant condition period or for such shorter period as his health and other relevant circumstances permit.

#### **Disabled facilities grants: certificates required in case of tenant's application**

**53.—**(1) The Executive shall not entertain a tenant's application for a disabled facilities grant unless it is accompanied by a tenant's certificate.

(2) A “tenant’s certificate”, for the purposes of an application for a disabled facilities grant, certifies—

- (a) that the application is a tenant’s application, and
- (b) that the applicant intends that he (if he is the disabled occupant) or the disabled occupant will live in the dwelling or flat as his only or main residence throughout the grant condition period or for such shorter period as his health and other relevant circumstances permit.

(3) Except where the Executive considers it unreasonable in the circumstances to seek such a certificate, the Executive shall not entertain a tenant’s application for a disabled facilities grant unless it is also accompanied by an owner’s certificate from the person who at the time of the application is the landlord under the tenancy.

**Disabled facilities grants: purposes for which grant must or may be given**

**54.**—(1) The purposes for which an application for a disabled facilities grant must be approved, subject to the provisions of this Chapter, are the following—

- (a) facilitating access by the disabled occupant to and from the dwelling or the building in which the dwelling or, as the case may be, flat is situated;
- (b) making the dwelling or building safe for the disabled occupant and other persons residing with him;
- (c) facilitating access by the disabled occupant to a room used or usable as the principal family room;
- (d) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room used or usable for sleeping;
- (e) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a lavatory, or facilitating the use by the disabled occupant of such a facility;
- (f) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a bath or shower (or both), or facilitating the use by the disabled occupant of such a facility;
- (g) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a washhand basin, or facilitating the use by the disabled occupant of such a facility;
- (h) facilitating the preparation and cooking of food by the disabled occupant;
- (i) improving any heating system in the dwelling to meet the needs of the disabled occupant or, if there is no existing heating system in the dwelling or any such system is unsuitable for use by the disabled occupant, providing a heating system suitable to meet his needs;
- (j) facilitating the use by the disabled occupant of a source of power, light or heat by altering the position of one or more means of access to or control of that source or by providing additional means of control;
- (k) facilitating access and movement by the disabled occupant around the dwelling in order to enable him to care for a person who is normally resident in the dwelling and is in need of such care;
- (l) such other purposes as may be specified by order of the Department.

(2) An application for a disabled facilities grant may be approved, subject to the provisions of this Chapter, for the purpose of making the dwelling or building suitable for the accommodation, welfare or employment of the disabled occupant in any other respect.

(3) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1) or the purpose mentioned in paragraph (2), it may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to the Executive to be necessary for that purpose.

### **Disabled facilities grants: approval of application**

**55.**—(1) The Executive—

- (a) shall approve an application for a disabled facilities grant for purposes within Article 54(1), and
- (b) may if it thinks fit approve an application for a disabled facilities grant not for a purpose within that provision but for the purpose specified in Article 54(2),

subject to the following provisions.

(2) Where the Executive entertains an owner's application for a disabled facilities grant made by a person who proposes to acquire a qualifying owner's interest, it shall not approve the application until it is satisfied that he has done so.

(3) The Executive shall not approve an application for a disabled facilities grant unless it is satisfied—

- (a) that the relevant works are necessary and appropriate to meet the needs of the disabled occupant, and
- (b) that it is reasonable and practicable to carry out the relevant works having regard to the age and condition of the dwelling or building.

In considering the matters mentioned in sub-paragraph (a) the Executive shall consult the relevant authority, unless the relevant works are of such a kind as may be agreed between the Executive and the authority.

(4) Where the Executive proposes to approve an application for a disabled facilities grant it shall consider—

- (a) in the case of an application in respect of works to a dwelling, whether the dwelling is fit for human habitation;
- (b) in the case of a common parts application, whether the building meets the requirements in Article 46(2) of the Order of 1981;

and the Executive shall take that into account in deciding whether it is reasonable and practicable to carry out the relevant works.

(5) The Executive shall not approve a common parts application for a disabled facilities grant unless it is satisfied that the applicant has a power or is under a duty to carry out the relevant works.

### *HMO grants*

### **HMO grants: the interest of the applicant in the property**

**56.**—(1) The Executive shall not entertain an application for an HMO grant unless it is satisfied that the applicant has or proposes to acquire an owner's interest in every parcel of land on which the relevant works are to be carried out.

(2) In accordance with directions given by the Department, the Executive may treat the condition in paragraph (1) as fulfilled by a person who has, or proposes to acquire, an owner's interest in only part of the land concerned.

(3) References in this Chapter to “a qualifying owner’s interest”, in relation to an application for an HMO grant, are to an owner’s interest meeting the condition in paragraph (1) or treated by virtue of paragraph (2) as meeting that condition.

### **HMO grants: certificate required to accompany application**

**57.**—(1) The Executive shall not entertain an application for an HMO grant unless it is accompanied by a certificate of future occupation.

(2) A “certificate of future occupation” certifies that the applicant—

- (a) has or proposes to acquire a qualifying owner’s interest in the house, and
- (b) intends that throughout the grant condition period the house or a part of it (specified in the certificate) will be residentially occupied, or available for residential occupation, under tenancies or licences by persons who are not connected with the owner for the time being of the house.

In sub-paragraph (b) “residential occupation” does not include occupation for a holiday and “tenancies” does not include a long tenancy.

### **HMO grants: purposes for which grant may be given**

**58.**—(1) The purposes for which an application for an HMO grant (other than a conversion application) may be approved are—

- (a) to comply with a notice under Article 41 of the Order of 1981 (repair notices) or otherwise to render the house fit for human habitation;
- (b) to comply with a notice under Article 80 of the Order of 1992 (notice requiring works to render premises fit for the number of occupants) or otherwise to enable the house to meet one or more of the requirements in paragraph (2) of that Article;
- (c) to provide adequate facilities for space heating;
- (d) to provide satisfactory internal arrangements;
- (e) to provide means of escape in case of fire or other fire precautions, not being precautions required under or by virtue of any statutory provision (whenever made);
- (f) to ensure that the house complies with such requirements with respect to construction or physical condition as may be specified by the Department;
- (g) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the house as are so specified;
- (h) any other purpose for the time being specified for the purposes of this Article by order of the Department.

(2) The purpose for which a conversion application may be approved is to provide a house in multiple occupation by the conversion of a house or other building.

(3) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1) or (2), the Executive may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to it to be necessary for that purpose.

(4) In exercise of the powers conferred by sub-paragraphs (f) and (g) of paragraph (1) the Department may specify requirements generally or for particular cases.

**HMO grants: approval of application**

59.—(1) The Executive may approve an application for an HMO grant if it thinks fit, subject to the following provisions.

(2) The Executive shall not approve an application for an HMO grant unless it is satisfied that the works are necessary for one or more of the purposes set out in Article 58(1) or (2).

(3) Where the Executive entertains an application for an HMO grant made by a person who proposes to acquire a qualifying owner's interest, it shall not approve the application until it is satisfied that he has done so.

(4) Where the Executive proposes to approve an application for an HMO grant, it shall consider whether the house to which the application relates is fit for human habitation and meets the requirements in Article 80(2) of the Order of 1992.

(5) If it appears to the Executive that the house is not fit for human habitation or does not meet those requirements, the Executive shall not approve the application unless it is satisfied—

- (a) that on completion of the relevant works, together with any other works proposed to be carried out, the house will be fit for human habitation and meet those requirements,
- (b) that there are satisfactory financial and other arrangements for carrying out those works, and
- (c) that the carrying out of the works is the most satisfactory course of action.

(6) In considering whether to approve an application for an HMO grant the Executive shall have regard to the expected life of the house (taking account, where appropriate, of the effect of carrying out the works).

*Restrictions on grant aid***Restriction on grants for works already begun**

60.—(1) Subject as follows, the Executive shall not approve an application for a grant if the relevant works have been begun before the application is approved.

(2) Where the relevant works have been begun but have not been completed, the Executive may approve the application for a grant if it is satisfied that there were good reasons for beginning the works before the application was approved.

(3) Where the Executive decides to approve an application in accordance with paragraph (2), it may, with the consent of the applicant, treat the application as varied so that the relevant works do not include any that are completed.

But in determining for the purposes of the application the physical condition of the dwelling, common parts or house or other building concerned, the Executive shall consider the condition of the premises at the date of the application.

(4) Subject as follows, the Executive shall not approve an application for a grant if the relevant works have been completed.

- (5) Nothing in this Article applies to an application for a grant in respect of works necessary—
  - (a) to render a dwelling fit for human habitation or to comply with a notice under Article 41 of the Order of 1981 (repair notices), or
  - (b) to enable a house in multiple occupation to meet one or more of the requirements in Article 80(2) of the Order of 1992 (fitness for the number of occupants) or to comply with a notice under that Article.



(6) If the Executive considers that the relevant works include works in addition to those necessary for the purposes mentioned in paragraph (5)(a) or (b), the Executive shall treat the application as an application to which this Article applies so far as it relates to those additional works.

### **Means testing in case of application by owner-occupier or tenant**

**61.**—(1) This Article applies—

- (a) to an application for a renovation grant which is—
  - (i) an owner’s application accompanied by an owner-occupation certificate, or
  - (ii) a tenant’s application; and
- (b) to any application for a disabled facilities grant.

(2) An owner’s application for a renovation grant shall be treated as falling within this Article if it is a conversion application for the provision of 2 or more dwellings and any of the certificates accompanying the application is an owner-occupation certificate.

(3) If in the case of an application for a renovation grant to which this Article applies the financial resources of the applicant exceed the applicable amount, the amount of any grant which may be paid shall, in accordance with regulations, be reduced from what it would otherwise have been.

(4) If in the case of an application for a disabled facilities grant the financial resources of any person of a description specified by regulations exceed the applicable amount, the amount of any grant which may be paid shall, in accordance with regulations, be reduced from what it would otherwise have been.

(5) Provision may be made by regulations—

- (a) for the determination of the amount which is to be taken to be the financial resources of any person, and
- (b) for the determination of the applicable amount referred to in paragraph (3) or (4), and
- (c) as to the circumstances in which the financial resources of a person are to be assumed (by reason of his receiving a prescribed benefit or otherwise) not to exceed the applicable amount.

(6) Regulations may, in particular—

- (a) make provision for account to be taken of the income, assets, needs and outgoings not only of the person himself but also of his spouse, any person living with him or intending to live with him and any person on whom he is dependent or who is dependent on him;
- (b) make provision for amounts specified in or determined under the regulations to be taken into account for particular purposes.

(7) Regulations may apply for the purposes of this Article, subject to such modifications as may be prescribed, any other statutory means-testing regime as it has effect from time to time.

(8) Regulations may make provision requiring any information or evidence needed for the determination of any matter under this Article to be furnished by such person as may be prescribed.

(9) In this Article “regulations” means regulations made by the Department.

### **Determination of amount of grant in case of landlord’s application**

**62.**—(1) This Article applies to—

- (a) an owner’s application for a renovation grant which is accompanied by a certificate of intended letting (not being an application which falls within Article 61: see paragraph (2) of that Article),
- (b) a landlord’s application for a common parts grant,

- (c) a landlord's application for a disabled facilities grant, and
- (d) any application for an HMO grant.

(2) The reference in paragraph (1)(c) to a landlord's application for a disabled facilities grant is to an owner's application in respect of works to a dwelling which is or is intended to be let, or to the common parts of a building in which a flat is or is intended to be let.

- (3) The amount of the grant (if any) shall be determined by the Executive, having regard to—
- (a) the extent to which the landlord is able to charge a higher rent for the premises because of the works, or
  - (b) such other matters as the Department may direct.

(4) The Executive may, if it thinks it appropriate, seek and act upon the advice of suitably qualified persons as to any matter arising under this Article.

(5) The Department may by regulations make provision requiring any information or evidence needed for the determination of any matter under this Article to be furnished by such person as may be prescribed.

#### **Apportionment in case of tenants' application for common parts grant**

**63.**—(1) This Article applies where the Executive approves a tenants' application for a common parts grant.

(2) The Executive shall decide how much of the cost of the relevant works is attributable to the applicants ("the attributable cost").

(3) For the purposes of this Article the attributable cost is an amount equal to the following proportion of the cost of the relevant works—

- (a) if it can be ascertained, the proportion that the aggregate of the respective liabilities of each of the applicants to carry out or contribute to the carrying out of the relevant works bears to the aggregate of all such liabilities on the part of all persons (including the applicants) so liable; or
- (b) if the proportion mentioned in sub-paragraph (a) cannot be ascertained, the proportion that the number of applicants bears to the number of persons (including the applicants) liable to carry out or contribute to the carrying out of works to the building.

(4) The Executive shall then apportion the attributable cost to each of the applicants—

- (a) in a case where the attributable cost is calculated by reference to the proportion mentioned in paragraph (3)(a), according to the proportion that his liabilities to carry out or contribute to the carrying out of the relevant works bears to the aggregate of the applicants' liabilities mentioned in that paragraph; or
- (b) in a case where the attributable cost is calculated by reference to the proportion mentioned in paragraph (3)(b), equally.

(5) The amount of the grant payable shall be the aggregate of the grants that would be payable to each of the applicants under Article 61 or, in the case of a participating landlord, under Article 62 if each of the applicants was an individual applicant in respect of his portion of the attributable cost.

(6) Where the interest of an occupying tenant is held jointly by 2 or more persons, those persons shall be regarded as a single person for the purposes of this Article.

#### **Power to specify maximum amount of grant**

**64.**—(1) The Department may, if it thinks fit, by order specify a maximum amount or a formula for calculating a maximum amount of grant which the Executive may pay in respect of an application for a grant.

(2) An order under this Article may make provision for different types of grant or for the same type of grant in different circumstances.

(3) In relation to an application for a grant in respect of works for any of the purposes in Article 54(1) (mandatory disabled facilities grant), the order may—

- (a) provide for a maximum amount of grant which must be paid if the application is approved, and
- (b) authorise the Executive, if it thinks fit, to pay a further amount in excess of that maximum but subject to such other maximum (if any) as may be specified in or determined in accordance with the order.

(4) The Executive may not, except as mentioned in paragraph (3), pay an amount of grant in excess of a specified maximum amount.

### *Decision and notification*

#### **Decision and notification**

**65.**—(1) The Executive shall by notice in writing notify an applicant for a grant as soon as reasonably practicable, and, in any event, not later than 6 months after the date of the application concerned, whether the application is approved or refused.

(2) Where the Executive decides to approve an application for a grant, it shall determine—

- (a) which of the relevant works are eligible for grant (in this Chapter referred to as “the eligible works”),
- (b) the amount of the expenses which in its opinion are properly to be incurred in the execution of the eligible works,
- (c) the amount of the costs which in its opinion have been properly incurred, or are properly to be incurred, with respect to preliminary or ancillary services and charges, and
- (d) the amount of grant it has decided to pay, taking into account all the relevant provisions of this Chapter.

The total of the amounts referred to in sub-paragraphs (b) and (c) is referred to in this Chapter as “the estimated expense”.

(3) If the Executive notifies the applicant under paragraph (1) that the application is approved, the Executive shall specify in the notice—

- (a) the eligible works,
- (b) the amounts referred to in paragraph (2)(b) and (c), and
- (c) the amount of the grant.

(4) If the Executive notifies the applicant under paragraph (1) that the application is refused, the Executive shall at the same time notify him of the reasons for the refusal.

(5) If after an application for a grant has been approved the Executive is satisfied that owing to circumstances beyond the control of the applicant—

- (a) the eligible works cannot be, or could not have been, carried out on the basis of the amount of expenses referred to in paragraph (2)(b),
- (b) the amount of the costs which have been or are to be incurred as mentioned in paragraph (2) (c) has been increased, or
- (c) the eligible works cannot be, or could not have been, carried out without carrying out additional works which could not have been reasonably foreseen at the time the application was made,

the Executive may re-determine the estimated expense and the amount of the grant.

(6) Where an application for a grant is approved, the Executive may (without prejudice to the following provisions of this Chapter) impose such conditions in relation to the approval or payment of the grant as it considers appropriate.

### *Payment of grants*

#### **Payment of grants: general**

**66.**—(1) Where the Executive has approved an application for a grant, it shall pay the grant, subject to the following provisions of this Chapter.

(2) The grant may be paid—

- (a) in whole after the completion of the eligible works, or
- (b) in part by instalments as the works progress and the balance after completion of the works.

(3) Where a grant is paid by instalments, the aggregate of the instalments paid before the completion of the eligible works shall not at any time exceed nine-tenths of the amount of the grant.

#### **Delayed payment of mandatory grant**

**67.**—(1) Where the Executive is obliged to approve an application for a grant by virtue of Article 55(1)(a) (mandatory disabled facilities grant), the Executive may do so on terms that payment of the grant, or part of it, will not be made before a date specified in the notification of the Executive's decision on the application.

(2) That date shall not be more than 12 months, or such other period as may be specified by order of the Department, after the date of the application.

#### **Payment of grants: conditions as to carrying out of the works**

**68.**—(1) It is a condition of payment of every grant that the eligible works are carried out within 12 months from—

- (a) the date of approval of the application concerned, or
- (b) where Article 67 applies (delayed payment of mandatory grant), the date specified in the notification of the Executive's decision,

or in either case, such further period as the Executive may allow.

(2) The Executive may, in particular, allow further time where it is satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen at the time the application was made.

(3) In approving an application for a grant the Executive may require as a condition of payment of the grant that the eligible works are carried out in accordance with such specifications as it determines.

(4) The payment of a grant, or part of a grant, is conditional upon—

- (a) the eligible works or the corresponding part of the works being executed to the satisfaction of the Executive, and
- (b) the Executive being provided with an acceptable invoice, demand or receipt for payment for the works and any preliminary or ancillary services or charges in respect of which the grant or part of the grant is to be paid.

For this purpose an invoice, demand or receipt is acceptable if it satisfies the Executive and is not given by the applicant or a member of his family.

**Payment of grants: conditions as to contractors employed**

69.—(1) It is a condition of payment of every grant that the eligible works are carried out by a contractor acceptable to the Executive.

(2) The Executive shall prepare a statement of the criteria by reference to which it is to determine whether a contractor is acceptable to it for the purposes of this Article and Article 36(2)(b).

(3) The Executive may revise the statement of the criteria from time to time.

(4) The Executive shall provide, at such price as it may determine, a copy of the statement of the criteria to any person who applies for one.

**Payment of grant to contractor**

70.—(1) The Executive may pay a grant or part of a grant—

(a) by payment direct to the contractor, or

(b) by delivering to the applicant an instrument of payment in a form made payable to the contractor.

The Executive shall not do so unless the applicant was informed before the grant application was approved that this would or might be the method of payment.

(2) Where an amount of grant is payable, but the works in question have not been executed to the satisfaction of the applicant, the Executive may at the applicant's request and if it considers it appropriate to do so withhold payment from the contractor.

If the Executive does so it may make the payment to the applicant instead.

**Applicant ceasing to be entitled before payment of grant**

71.—(1) This Article applies where an application for a grant is approved but before the certified date the applicant ceases to be a person entitled to a grant of that description.

In the case of a joint application this Article does not apply unless all the applicants cease to be so entitled.

(2) Where this Article applies—

(a) in the case of a renovation grant, disabled facilities grant or HMO grant, no grant shall be paid or, as the case may be, no further instalments shall be paid, and

(b) in the case of a common parts grant approved on a landlord's application, the Executive may refuse to pay the grant or any further instalment;

and the Executive may demand that any instalment of the grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment, at such reasonable rate as the Executive may determine.

(3) For the purposes of this Article an applicant ceases to be a person entitled to a renovation grant—

(a) in the case of an owner's application—

(i) if he ceases to have a qualifying owner's interest, or

(ii) if he ceases to have the intention specified in the owner-occupation certificate or certificate of intended letting which accompanied the application;

(b) in the case of a tenant's application—

(i) if he ceases to be a qualifying tenant of the dwelling, or

(ii) if the application was accompanied by a certificate of intended letting and the landlord ceases to have the intention specified in the certificate; or

- (c) if the application was approved under Article 44(5) (approval of grant in respect of works to unfit premises) and the Executive ceases to be satisfied of the matters mentioned in that provision.
- (4) For the purposes of this Article an applicant ceases to be a person entitled to a disabled facilities grant—
  - (a) in the case of an owner’s application—
    - (i) if he ceases to have a qualifying owner’s interest, or
    - (ii) if he ceases to have the intention specified in the owner’s certificate which accompanied the application;
  - (b) in the case of a tenant’s application—
    - (i) if he ceases to be a qualifying tenant of the dwelling, or
    - (ii) if the application was accompanied by an owner’s certificate and the landlord ceases to have the intention specified in the certificate.

But if the case falls within Article 72 (change of circumstances affecting disabled occupant), the Executive shall act under that Article.

- (5) For the purposes of this Article an applicant ceases to be a person entitled to an HMO grant—
  - (a) if he ceases to have a qualifying owner’s interest in the house;
  - (b) if he ceases to have the intention specified in the certificate of future occupation which accompanied the application;
  - (c) if the application was approved under Article 59(5) (approval of grant in respect of works to unfit premises) and the Executive ceases to be satisfied of the matters mentioned in that provision.
- (6) For the purposes of this Article an applicant whose application is a landlord’s application for a common parts grant ceases to be a person entitled to a grant—
  - (a) if he ceases to have an owner’s interest in the building;
  - (b) if he ceases to have a duty or power to carry out the relevant works; or
  - (c) if the application was approved under Article 49(4) (approval of grant in respect of works to unfit premises) and the Executive ceases to be satisfied of the matters mentioned in that provision.
- (7) This Article has effect subject to Article 87 (provisions relating to death of applicant).

### **Change of circumstances affecting disabled occupant**

**72.—**(1) This Article applies where an application for a disabled facilities grant has been approved and before the certified date—

- (a) the works cease to be necessary or appropriate to meet the needs of the disabled occupant, or
- (b) the disabled occupant ceases to occupy the dwelling or flat concerned or it ceases to be the intention that he should occupy it, or
- (c) the disabled occupant dies.

Where the application related to more than one disabled occupant, this Article applies if any of subparagraphs (a) to (c) applies in relation to any of them.

(2) This Article applies whether or not the disabled occupant (or any of them) is the applicant (or one of them).

(3) Where this Article applies the Executive may take such action as appears to it appropriate and may decide—

- (a) that no grant shall be paid or, as the case may be, no further instalments shall be paid,
- (b) that the relevant works or some of them should be completed and the grant or an appropriate proportion of it paid, or
- (c) that the application should be redetermined in the light of the new circumstances.

(4) In making its decision the Executive shall have regard to all the circumstances of the case.

(5) If the Executive decides that no grant shall be paid or that no further instalments shall be paid, the Executive may demand that any instalment of the grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment, at such reasonable rate as the Executive may determine.

### **Cases in which grants may be recalculated, withheld or repaid**

**73.**—(1) This Article applies where an application for a grant has been approved by the Executive and—

- (a) the Executive ascertains that the amount was determined under Article 61 or 62 on the basis of inaccurate or incomplete information and exceeds that to which the applicant was entitled;
- (b) the Executive ascertains that without its knowledge the eligible works were started before the application was approved;
- (c) the eligible works are not completed to the satisfaction of the Executive within the period specified under Article 68(1), or such extended period as the Executive may allow under that provision;
- (d) the Executive ascertains that the aggregate of the cost of completing the eligible works and the costs incurred with respect to preliminary or ancillary services and charges, is or is likely to be lower than the estimated expense; or
- (e) the Executive ascertains that without its knowledge the eligible works were carried out otherwise than as required by Article 69 (conditions as to contractors employed).

(2) Where this Article applies, the Executive may—

- (a) refuse to pay the grant or any further instalment of grant which remains to be paid, or
- (b) make a reduction in the grant which, in a case falling within paragraph (1)(d), is to be a reduction proportionate to the reduction in the estimated expense;

and the Executive may demand repayment by the applicant forthwith, in whole or part, of the grant or any instalment of the grant paid, together with interest from the date of payment until repayment, at such reasonable rate as the Executive may determine.

### **Repayment where applicant not entitled to grant**

**74.**—(1) This Article applies where an application for a grant is approved but it subsequently appears to the Executive that the applicant (or, in the case of a joint application, any of the applicants) was not, at the time the application was approved, entitled to a grant of that description.

(2) Where this Article applies—

- (a) in the case of a renovation grant, disabled facilities grant or HMO grant, no grant shall be paid or, as the case may be, no further instalments shall be paid, and
- (b) in the case of a common parts grant approved on a landlord's application, the Executive may refuse to pay the grant or any further instalment,

and the Executive may demand that any grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment, at such reasonable rate as the Executive may determine.

- (3) For the purposes of this Article an applicant is not entitled to a renovation grant—
- (a) in the case of an owner’s application if—
    - (i) he does not have a qualifying owner’s interest, or
    - (ii) he does not have the intention specified in the owner-occupation certificate or certificate of intended letting which accompanied the application; or
  - (b) in the case of a tenant’s application if—
    - (i) he is not a qualifying tenant of the dwelling, or
    - (ii) if the application was accompanied by a certificate of intended letting and the landlord does not have the intention specified in the certificate.
- (4) For the purposes of this Article an applicant is not entitled to a disabled facilities grant—
- (a) in the case of an owner’s application—
    - (i) if he does not have a qualifying owner’s interest, or
    - (ii) if he does not have the intention specified in the owner’s certificate which accompanied the application; or
  - (b) in the case of a tenant’s application—
    - (i) if he is not a qualifying tenant of the dwelling, or
    - (ii) if the application was accompanied by an owner’s certificate and the landlord does not have the intention specified in the certificate.
- (5) For the purposes of this Article an applicant is not entitled to an HMO grant—
- (a) if he does not have a qualifying owner’s interest in the house; or
  - (b) if he does not have the intention specified in the certificate of future occupation which accompanied the application.
- (6) For the purposes of this Article an applicant whose application is a landlord’s application for a common parts grant is not entitled to a grant—
- (a) if he does not have an owner’s interest in the building; or
  - (b) if he does not have a duty or power to carry out the relevant works.

#### *Grant conditions and repayment*

#### **Grant conditions: introductory**

**75.**—(1) The following Articles have effect with respect to the conditions to be observed where an application for a grant has been approved by the Executive.

In this Chapter a “grant condition” means a condition having effect in accordance with any of those Articles.

- (2) Except as otherwise provided—
- (a) the grant conditions as to repayment on disposal (Articles 76 to 78) have effect from the date on which the application is approved until the end of the grant condition period;
  - (b) the grant conditions as to occupation (Articles 79 to 81) have effect from the certified date until the end of the grant condition period; and



- (c) a grant condition imposed under Article 83 (power to impose other conditions) has effect for such period as may be specified by the Executive.

(3) In this Chapter—

- (a) the “grant condition period” means the period of 5 years, or such other period as the Department may by order specify, beginning on the certified date; and
- (b) the “certified date” means the date certified by the Executive as the date on which the execution of the eligible works is completed to its satisfaction.

(4) The Executive may not impose any condition requiring a grant to be repaid except in accordance with the following Articles.

This applies whether the condition purports to operate as a condition of the grant, as a personal covenant or otherwise.

#### **Condition for repayment on disposal: renovation grants**

76.—(1) It is a condition of a renovation grant that if an owner of the premises to which the application relates makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the premises to which the application relates,
- (b) after any instalment of grant has been paid, and
- (c) before the certified date,

he shall repay to the Executive on demand the amount of grant that has been paid.

(2) It is a condition of a renovation grant that if an owner of the dwelling to which the application relates or, in the case of a conversion application, any dwelling provided by the relevant works, makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the dwelling,
- (b) on or after the certified date, and
- (c) before the end of the grant condition period,

he shall repay to the Executive on demand the amount of grant that has been paid.

In the case of a conversion application the grant shall be treated for this purpose as apportioned equally between the dwellings provided.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the premises concerned and any amount of grant which is repayable under paragraph (1) or (2) shall, until recovered, be deemed to be a charge on the premises.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1) or (2), it may determine not to demand payment or to demand a lesser amount.

(5) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal, other than—

- (a) a disposal within Article 85(1)(a) (disposal to associates of person making disposal), or
- (b) a disposal within Article 85(1)(b) (vesting under will or on intestacy).

#### **Condition for repayment on disposal: common parts grants**

77.—(1) It is a condition of a common parts grant approved on a landlord’s application that if the applicant makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the building,
- (b) after any instalment of grant has been paid, and

(c) before the certified date,

he shall repay to the Executive on demand the amount of grant that has been paid.

(2) It is a condition of a common parts grant approved on a landlord's application that if the applicant makes a relevant disposal (other than an exempt disposal)—

(a) of the whole or part of the building,

(b) on or after the certified date, and

(c) before the end of the grant condition period,

he shall repay to the Executive on demand the amount of grant that has been paid.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being a successor in title to the interest in the building by virtue of which the applicant made his application; and any amount of grant which is repayable under paragraph (1) or (2) shall, until recovered, be deemed to be a charge on the building.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1) or (2), it may determine not to demand payment or to demand a lesser amount.

(5) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal.

#### **Condition as to repayment on disposal: HMO grants**

**78.**—(1) It is a condition of an HMO grant that if an owner of the house makes a relevant disposal (other than an exempt disposal)—

(a) of the whole or part of the house,

(b) after any instalment of grant has been paid, and

(c) before the certified date,

he shall repay to the Executive on demand the amount of grant that has been paid.

(2) It is a condition of an HMO grant that if an owner of the house makes a relevant disposal (other than an exempt disposal)—

(a) of the whole or part of the house,

(b) on or after the certified date, and

(c) before the end of the grant condition period,

he shall repay to the Executive on demand the amount of grant that has been paid.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the house; and any amount of grant which is repayable under paragraph (1) or (2) shall, until recovered, be deemed to be a charge on the house.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1) or (2), it may determine not to demand payment or to demand a lesser amount.

(5) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal.

#### **Condition as to owner-occupation: renovation grants**

**79.**—(1) Where an application for a renovation grant was accompanied by an owner-occupation certificate in respect of any dwelling (see Article 41(2)), it is a condition of the grant that throughout the grant condition period the dwelling is occupied in accordance with the intention stated in the certificate.

(2) It is also a condition of the grant that if at any time when that condition is in force the Executive serves notice on the owner of the dwelling requiring him to do so, he will within the period of 21 days beginning on the date on which the notice was served furnish to the Executive a statement showing how that condition is being fulfilled.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the dwelling; and any amount of grant and interest which is repayable under paragraph (4) shall, until recovered, be deemed to be a charge on the dwelling.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the dwelling shall on demand repay to the Executive the amount of the grant, together with interest on that amount as from the certified date, at such reasonable rate as the Executive may determine.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) Any condition under this Article shall cease to be in force with respect to the dwelling if there is a relevant disposal of the dwelling that is an exempt disposal, other than—

- (a) a disposal within Article 85(1)(a) (disposal to associates of person making disposal), or
- (b) a disposal within Article 85(1)(b) (vesting under will or on intestacy).

#### **Condition as to availability for letting: renovation grants**

**80.**—(1) Where an application for a renovation grant was accompanied by a certificate of intended letting in respect of any dwelling (see Article 41(3)), it is a condition of the grant that throughout the grant condition period the dwelling is let or available for letting in accordance with the intention stated in the certificate.

(2) It is also a condition of the grant that if at any time within the grant condition period the Executive serves notice on the owner of the dwelling requiring him to do so, he will within the period of 21 days beginning on the date on which the notice was served furnish to the Executive a statement showing how the condition in paragraph (1) is being fulfilled.

(3) A condition under this Article—

- (a) shall be a statutory charge and binding on any person who is for the time being the owner of the dwelling; and
- (b) is enforceable against all other persons having an interest in the dwelling as if it were a condition of the terms of every tenancy of, or of property including, the dwelling; and

any amount of grant and interest which is repayable under paragraph (4) shall, until recovered, be deemed to be a charge on the dwelling.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the dwelling shall on demand repay to the Executive the amount of the grant, together with interest on that amount as from the certified date, at such reasonable rate as the Executive may determine.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) The terms of any tenancy of the dwelling (or any part of it, or any property including the dwelling or part of it) shall be deemed to include a duty on the part of the tenant, if required to do so by the owner of the dwelling, to furnish him with such information as he may reasonably require to enable him to comply with a notice under paragraph (2).

#### **Conditions as to occupation: HMO grants**

**81.**—(1) It is a condition of an HMO grant that throughout the grant condition period—

- (a) the house is occupied or available for residential occupation in accordance with the intention stated in the certificate of future occupation that accompanied the application (see Article 57(2)); and

- (b) that the house is not so occupied as to cause a breach of any direction given by the Executive under Article 85 of the Order of 1992 (power to limit number of occupants of house).

(2) It is also a condition of the grant that if at any time within the grant condition period the Executive serves notice on the owner of the house requiring him to do so, he will within the period of 21 days beginning on the date on which the notice was served furnish to the Executive a statement showing how the condition in paragraph (1)(a) is being fulfilled.

(3) A condition under this Article—

- (a) shall be a statutory charge and binding on any person who is for the time being an owner of the house; and
- (b) is enforceable against all other persons to whom any part of the house is let or licensed as if it were a condition of the terms of every tenancy or licence of part of the house; and

any amount of grant and interest which is repayable under paragraph (4) shall, until recovered, be deemed to be a charge on the house.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the house shall on demand pay to the Executive the amount of the grant, together with interest on that amount as from the certified date, at such reasonable rate as the Executive may determine.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) The terms of any tenancy of any part of the house shall be deemed to include a duty on the part of the tenant, if required to do so by the owner of the house, to furnish him with such information as he may reasonably require to enable him to comply with a notice under paragraph (2).

#### **Conditions as to repayment in case of other compensation, &c.**

**82.**—(1) Where the Executive approves an application for a grant it may impose a condition requiring the applicant to take reasonable steps to pursue any relevant claim to which this Article applies and to repay the grant, so far as appropriate, out of the proceeds of such a claim.

(2) The claims to which this Article applies are—

- (a) an insurance claim, or a legal claim against another person, in respect of damage to the premises to which the grant relates, or
- (b) a legal claim for damages in which the cost of the works to premises to which the grant relates is part of the claim;

and a claim is a relevant claim to the extent that works to make good the damage mentioned in sub-paragraph (a), or the cost of which is claimed as mentioned in sub-paragraph (b), are works to which the grant relates.

(3) In the event of a breach of a condition under this Article, the applicant shall on demand pay to the Executive the amount of the grant so far as relating to any such works, together with interest as from such date as may be prescribed by or determined in accordance with regulations made by the Department, at such reasonable rate as the Executive may determine.

(4) The Executive may determine not to make such a demand or to demand a lesser amount.

#### **Power to impose other conditions**

**83.**—(1) Where the Executive approves an application for a grant it may impose such conditions as it thinks fit—

- (a) relating to things done or omitted before the certified date and requiring the repayment to the Executive on demand of any instalments of grant paid; or

- (b) relating to things done or omitted on or after that date and before the end of the grant condition period and requiring the payment to the Executive on demand of a sum equal to the amount of the grant paid;

and in either case, that amount may be required to be paid together with interest on that amount as from the date of payment, at such reasonable rate as the Executive may determine.

(2) A condition under this Article shall be a statutory charge and binding on—

- (a) any person who is for the time being an owner of the dwelling, house or building,
- (b) such other persons (if any) as the Executive may specify; and

any amount of grant and interest which is repayable under paragraph (1) shall, until recovered, be deemed to be a charge on the house, dwelling or building.

(3) The reference in paragraph (2)(a) to the owner of the building shall be construed—

- (a) in the case of a grant condition imposed on a landlord's application for a common parts grant, as a reference to the applicant or any successor in title to the interest in the building by virtue of which the applicant made his application;
- (b) in the case of a grant condition imposed on an application for an HMO grant, as excluding such persons as may be prescribed.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1), it may determine not to demand payment or to demand a lesser amount.

(5) Any conditions imposed under this Article are in addition to the conditions provided for by Articles 76 to 82.

### **Meaning of relevant disposal**

**84.**—(1) A disposal is a relevant disposal for the purposes of the provisions of this Chapter relating to grant conditions if it is—

- (a) a conveyance of a freehold estate in possession (whether legal or equitable) or an assignment of the lease, or
- (b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.

(2) For the purposes of paragraph (1)(b) it shall be assumed—

- (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
- (b) that any option to terminate a lease or sub-lease is not exercised.

(3) The grant of an option enabling a person to call for a relevant disposal shall be treated as such a disposal made to him.

### **Meaning of exempt disposal**

**85.**—(1) A disposal is an exempt disposal for the purposes of the provisions of this Chapter relating to grant conditions if it is a disposal of the whole or part of the premises to which the application relates of any of the following descriptions—

- (a) a conveyance of a freehold estate in possession (whether legal or equitable) or an assignment of the lease where the person, or each of the persons, to whom it is made is a qualifying person (as defined in paragraph (2));
- (b) a vesting in a person taking under a will or on an intestacy;
- (c) a disposal in pursuance of any such order as is mentioned in paragraph (3);

- (d) a compulsory disposal (see paragraph (4));
  - (e) a disposal of property consisting of land included in the dwelling and used for the purposes of the dwelling;
  - (f) a disposal under which the interest of a person entitled to assistance by way of repurchase under Part II of the Order of 1986 (assistance for owners of defective housing) is acquired in accordance with Schedule 2 to that Order;
  - (g) a disposal of the whole of the dwelling and a conveyance of a freehold estate in possession (whether legal or equitable) or an assignment of the lease where—
    - (i) the person making the disposal is aged at least 70;
    - (ii) the disposal is to provide an annuity income; and
    - (iii) the person concerned is entitled to continue to occupy the dwelling as his only or main residence;
  - (h) a disposal of any other description specified by order of the Department for the purposes of this Article.
- (2) A person is a qualifying person for the purposes of paragraph (1)(a) if—
- (a) in the case of an individual, he is—
    - (i) the person, or one of the persons, by whom the disposal is made;
    - (ii) the spouse, or former spouse, of that person or one of those persons; or
    - (iii) a member of the family of that person or one of those persons; or
  - (b) in the case of a company, it is an associated company of the company by whom the disposal is made.

Section 416 of the Income and Corporation Taxes Act 1988 (c. 1) (meaning of associated company) applies in determining whether a company is an associated company of another for the purposes of sub-paragraph (b).

- (3) The orders referred to in paragraph (1)(c) are orders under—
- (a) Article 26(1) of the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#) (property adjustment orders in connection with matrimonial proceedings);
  - (b) Article 4 of the [Inheritance \(Provision for Family and Dependents\) \(Northern Ireland\) Order 1979 \(NI 8\)](#) (orders as to financial provision to be made from estate);
  - (c) Article 21 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (property adjustment orders or orders for the sale of property after overseas divorce, etc.);
  - (d) paragraph 2 of Schedule 1 to the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) (orders for financial relief against parents).

(4) For the purposes of paragraph (1)(d) a compulsory disposal is a disposal of property to a person who has made or who would have made, or for whom another person has made or would have made, a vesting order authorising its acquisition compulsorily for the purposes for which it is acquired.

(5) The grant of an option enabling a person to call for an exempt disposal shall be treated as such a disposal made to him.

#### **Cessation of conditions on repayment of grant, &c.**

**86.**—(1) If at any time while a grant condition remains in force with respect to a dwelling, house or building—

- (a) the owner of the dwelling, house or building to which the condition relates pays the amount of the grant to the Executive,
- (b) a mortgagee of the interest of the owner in that dwelling, house or building being a mortgagee entitled to exercise a power of sale, makes such a payment,
- (c) the Executive determines not to demand repayment on the breach of a grant condition, or
- (d) the Executive demands repayment in whole or in part on the breach of a grant condition and that demand is satisfied,

the grant condition and any other grant conditions shall cease to be in force with respect to that dwelling, house or building.

(2) In the case of a grant condition imposed on a landlord's application for a common parts grant the references in paragraph (1)(a) and (b) to the owner of the building are to the applicant or any such successor in title as is referred to in Article 77(3).

(3) An amount paid by a mortgagee under paragraph (1)(b) shall be treated as part of the sums secured by the mortgage and may be discharged accordingly.

(4) The purposes authorised for the application of capital money by sections 21 and 63 of the Settled Land Act 1882 (c. 38) include the making of payments under this Article.

### *Supplementary*

#### **Provisions relating to death of applicant**

**87.**—(1) References in this Chapter to the applicant, in relation to a grant or an application for a grant, shall be construed in relation to any time after his death as a reference to his personal representatives.

(2) Where the applicant dies after liability has been incurred for any preliminary or ancillary services or charges, the Executive may, if it thinks fit, pay grant in respect of some or all of those matters.

(3) Where the applicant dies after the relevant works have been begun and before the certified date, the Executive may, if it thinks fit, pay grant in respect of some or all of the works already carried out and other relevant works covered by the application.

(4) Nothing in this Article shall be construed as preventing the provisions as to grant conditions applying in relation to any payment of grant under paragraph (2) or (3).

#### **Power of Executive to carry out works which would attract grant**

**88.**—(1) The Executive may by agreement with a person having the requisite interest execute at his expense—

- (a) any works towards the cost of which a grant under this Chapter is payable or might be paid on an application duly made and approved, and
- (b) any further works which it is in the Executive's opinion necessary or desirable to execute together with the works mentioned in sub-paragraph (a).

(2) Except in the case of a common parts grant, the "requisite interest" means a qualifying owner's interest for the purposes of a renovation grant, or an owner's interest for the purposes of a disabled facilities grant or HMO grant, as the case may be.

(3) In the case of a common parts grant, the reference in paragraph (1) to a person having the requisite interest is a reference to the person who has—

- (a) an owner's interest in the building, or

(b) such an interest in a flat in the building as is mentioned in Article 45(2)(a) to (c) (occupying tenants),  
and has a power or duty to carry out the relevant works.

### CHAPTER III GROUP REPAIR SCHEMES

#### *Introductory*

#### **Interpretation of Chapter III**

**89.** In this Chapter the expressions listed below are defined by or otherwise fall to be construed in accordance with the provisions of this Chapter indicated—

assisted participant	Article 94(2), (7), (8) and (9)
balance of the cost (in relation to conditions of participation)	Article 99(3)
building	Article 90(2)
certificate of future occupation	Article 94(6)
certificate of intended letting	Article 94(4)
completion date	Article 96(2)
eligible to participate	Article 94(1)
exempt disposal	Article 102
group repair scheme	Article 90(1)
owner-occupation scheme	Article 90(1)
protected period (in relation to conditions of participation)	Article 99(2)
qualifying building	Article 91
relevant disposal	Article 102
scheme consent	Article 95(1)
scheme works	Article 92
tenant and related expressions (in the context of a certificate of intended letting)	Article 94(5)
unattended participant	Article 94(7) and (11)

#### **Group repair schemes**

**90.**—(1) The Executive may prepare a scheme (a “group repair scheme”) for the carrying out of works—

- (a) to put in reasonable repair the exterior of buildings to which the scheme relates, or
  - (b) to render the buildings to which the scheme relates structurally stable,
- or for both those purposes.



(2) For the purposes of this Chapter “building” includes the whole or part of a terrace of houses or other units.

(3) The scheme must satisfy the requirements of Articles 91 and 92 as to the buildings to which it relates and the works specified in it.

### **Qualifying buildings**

**91.**—(1) The buildings to which a group repair scheme relates must be qualifying buildings.

(2) A building is a qualifying building if at the time the scheme is prepared it satisfies such conditions as may be prescribed for qualifying buildings in relation to a group repair scheme.

(3) A group repair scheme must relate to at least one qualifying building which at the time the scheme is prepared satisfies the conditions prescribed for a primary building in relation to a group repair scheme.

(4) Each of the other qualifying buildings to which a group repair scheme relates must satisfy the conditions prescribed for additional buildings in relation to a group repair scheme.

### **Scheme works**

**92.**—(1) The works specified in a group repair scheme (“scheme works”) must be works of the following descriptions.

(2) In the case of works to put in reasonable repair the exterior of the buildings to which the scheme relates, the works must be—

- (a) works to the exterior of the buildings to which the scheme relates, or
- (b) so far only as may be necessary to give satisfactory effect to such works, additional works to other parts of the buildings,

and must be such that on completion of the works the exterior of the buildings will be in reasonable repair.

(3) In the case of works to render the buildings to which the scheme relates structurally stable, the works must be—

- (a) works to the structure or to the foundations of the buildings to which the scheme relates, or
- (b) other works necessary to give satisfactory effect to such works,

and must be such that on completion of the works the buildings will be structurally stable.

(4) For the purposes of this Chapter the exterior of a building means—

- (a) any part of the building which is exposed to the elements of wind and rain or otherwise faces into the open air (including, in particular, roofs, chimneys, walls, doors, windows, rainwater goods and external pipework), and
- (b) the curtilage of the building, including any wall within the curtilage which is constructed as a retaining wall or otherwise to protect the structure of the building.

(5) In relation to works to the curtilage of a building the reference in paragraph (2)(b) to additional works to other parts of the building includes additional works on land outside the curtilage.

(6) For the purposes of this Chapter the exterior of a building shall not be regarded as in reasonable repair unless it is substantially free from rising or penetrating damp.

### **Approval of scheme by the Department**

**93.**—(1) If a group repair scheme prepared by the Executive is approved by the Department, the Executive may, with the consent of the persons participating in the scheme, enter into agreements to secure the carrying out of the works specified in the scheme.

(2) The approval of the Department may be given either to a specific scheme or generally to schemes which fulfil such criteria as the Department may specify.

(3) Different criteria may be specified for different types of scheme and for different areas.

(4) The approval of a scheme may be made conditional upon compliance with requirements specified by the Department.

#### *Participation in group repair scheme*

#### **Persons eligible to participate in group repair scheme**

**94.**—(1) A person is eligible to participate in a group repair scheme if at the date of the approval of the scheme—

- (a) he has an owner’s interest in a dwelling or other premises comprised in a building to which the scheme relates, and
- (b) as respects the dwelling or other premises in which he has an owner’s interest he either—
  - (i) is able to give possession of any part of the building to which scheme works are proposed to be carried out, or
  - (ii) has the consent of the occupier of that part to the carrying out of those works.

In the case of a scheme not submitted for specific approval, the date of approval shall be taken to be the date on which the Executive decides that the scheme fulfils the criteria for general approval.

(2) A person eligible to participate in a group repair scheme may participate as an assisted participant—

- (a) if the owner’s interest which he has is an interest in a dwelling and he gives an owner-occupation certificate or a certificate of intended letting, or
- (b) if the owner’s interest which he has is an interest in a house in multiple occupation and he gives a certificate of future occupation.

This paragraph is subject to the exceptions specified in paragraph (7) or (8), or by order under paragraph (9).

- (3) An “owner-occupation certificate” certifies that the person concerned—
  - (a) has an owner’s interest in the dwelling, and
  - (b) intends that throughout the protected period he, or a member of his family, will live in the dwelling, as his (or that member's) only or main residence.
- (4) A “certificate of intended letting” certifies that the person concerned—
  - (a) has an owner’s interest in the dwelling, and
  - (b) intends that throughout the protected period the dwelling will be let or available for letting as a residence and not for a holiday to someone other than a member of his family.

In sub-paragraph (b) “letting” does not include letting on a long tenancy.

(5) In paragraph (4) references to letting include the grant of a licence to occupy premises.

References in this Chapter to tenants, and other expressions relating to tenancies, in the context of a certificate of intended letting, shall be construed accordingly.

- (6) A “certificate of future occupation” certifies that the person concerned—
  - (a) has an owner’s interest in the house, and
  - (b) intends that throughout the protected period the house or a part of it (specified in the certificate) will be residentially occupied, or available for residential occupation, under

tenancies or licences by persons who are not connected with the owner for the time being of the house.

In sub-paragraph (b) “residential occupation” does not include occupation for a holiday and “tenancies” does not include a long tenancy.

(7) A registered housing association, which has an owner’s interest in a dwelling or other premises comprised in a building to which a group repair scheme relates, is eligible to participate in the scheme, but only as an unassisted participant.

(8) The Executive may participate in a group repair scheme by including in the scheme a dwelling or other premises comprised in a building in which it has an owner’s interest.

(9) The Department may by order exclude any person from participating in a group repair scheme as an assisted participant.

(10) An order under paragraph (9) may proceed wholly or in part by reference to the provisions relating to entitlement to housing benefit, or any other form of assistance, as they have effect from time to time.

(11) A person eligible to participate in a group repair scheme who is unable to participate as an assisted participant may participate as an unassisted participant.

#### **Scheme consent and restriction on works**

**95.**—(1) The persons who are eligible to participate in a group repair scheme do so by signifying consent (“scheme consent”), in accordance with the terms of the scheme, to the proposals to carry out the works specified in the scheme.

(2) No scheme works shall be carried out to a part of a building which consists of premises in respect of which no person eligible to participate has signified scheme consent, except as mentioned below.

(3) The restriction in paragraph (2) does not apply to works carried out to premises in respect of which there is no person (or no ascertainable person) eligible to participate in the scheme.

(4) The restriction in paragraph (2) does not apply to works—

- (a) which are carried out to premises in respect of which the person eligible to participate consents to their being carried out but has not signified scheme consent (and, accordingly, is not liable to contribute), and
- (b) which it is necessary to carry out in order satisfactorily to carry out any works specified in the scheme to another part of the same building in respect of which a person eligible to participate has signified scheme consent.

#### **Certificate of completion date**

**96.**—(1) When the works specified in a group repair scheme are completed, the Executive shall send to each assisted participant a certificate specifying the date on which the works were completed to the Executive’s satisfaction.

(2) In this Chapter that date is referred to as “the completion date”.

#### **Contributions by participants**

**97.**—(1) The participants in a group repair scheme are liable to contribute to the cost, as notified to them under the scheme, of scheme works relating to the premises in which they have an interest, at a rate determined in accordance with this Article.

(2) The cost of the works shall be apportioned between the several buildings and premises in such way as may be agreed between the participants with owner's interests in them or, in default of agreement, equally.

(3) In the case of an unassisted participant, the rate of contribution shall be 100 per cent.

(4) In the case of an assisted participant the rate of contribution is a percentage determined by the Executive, not exceeding—

- (a) 25 per cent. where the building is in a housing action area; and
- (b) 50 per cent. in any other case.

The Department may by order amend sub-paragraph (a) or sub-paragraph (b) so as to specify a different percentage.

(5) In making its determination the Executive shall have regard to the way in which—

- (a) Article 61 (means-testing in case of application by owner-occupier or tenant), or
- (b) Article 62 (determination of amount of grant in case of landlord's application),

would apply if he were an applicant for a renovation grant or, as the case may require, an HMO grant.

(6) The Executive shall also have regard to any guidance given by the Department for the purposes of this Article.

#### *Variation of group repair scheme*

#### **Variation of group repair scheme**

**98.**—(1) A group repair scheme may be varied at any time before the completion date.

The variation may relate to the participants in the scheme, the buildings to which the scheme relates, the scheme works or any other matter.

(2) A variation is not effective unless approved by the Department.

The provisions of Article 93(2) to (4) (supplementary provisions as to approval of scheme) apply to approval of a variation.

(3) Where a scheme is varied to enable other persons to participate, Article 94 (persons eligible to participate) applies in relation to new participants with the substitution for the reference to the date of approval of the scheme of a reference to the date of approval of the variation.

In the case of a variation not submitted for specific approval, the date of approval shall be taken to be the date on which the Executive decides that the variation fulfils the criteria for general approval.

(4) Before varying a group repair scheme the Executive shall consult the existing participants and consider any representations made by them.

(5) Fresh scheme consent is required in the case of an existing participant as to whom the Executive is satisfied that his interests are adversely affected by the variation.

In any other case the existing scheme consent shall be treated as extended to the scheme as varied.

#### *Conditions as to participation*

#### **Conditions of participation: general**

**99.**—(1) The following Articles have effect with respect to the conditions of participation in a group repair scheme as an assisted participant.

(2) Except as otherwise provided those conditions have effect for the period of 3 years, or such other period as may be prescribed, beginning with the completion date.

That period is referred to in this Chapter as “the protected period”.

- (3) For the purposes of those conditions the “balance of the cost” is the difference between—
- (a) the cost as notified to the participant under the scheme of such of the works specified in the scheme as relate to the premises in which his owner’s interest subsisted, and
  - (b) the amount of the contribution in respect of that cost paid by him by virtue of Article 97.

### **Condition as to payment of balance of cost on disposal**

**100.**—(1) It is a condition of participation in a group repair scheme as an assisted participant that if, after signifying scheme consent and before the end of the protected period, he makes a relevant disposal (other than an exempt disposal) of the premises in which he had an owner’s interest at the date of the approval of the scheme, he shall pay to the Executive on demand the balance of the cost.

(2) The condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the premises concerned; and any amount which is payable under paragraph (1) shall, until recovered, be deemed to be a charge on the premises.

(3) Where the Executive has the right to demand payment as mentioned in paragraph (1), it may determine not to demand payment or to demand a lesser amount.

(4) The condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal, other than—

- (a) a disposal within Article 85(1)(a) (disposal to associates of person making disposal), or
- (b) a disposal within Article 85(1)(b) (vesting under will or on intestacy).

### **Conditions as to occupation**

**101.**—(1) It is a condition of participation in a group repair scheme as an assisted participant—

- (a) where the participant gave an owner-occupation certificate, that throughout the protected period the dwelling is occupied in accordance with the intention stated in the certificate;
- (b) where the participant gave a certificate of intended letting, that throughout the protected period the dwelling is let or available for letting in accordance with the intention stated in the certificate; and
- (c) where the participant gave a certificate of future occupation, that throughout the protected period the house is residentially occupied, or available for residential occupation, in accordance with the intention stated in the certificate.

(2) It is also a condition of participation as an assisted participant that if at any time when any of the above conditions is in force the Executive serves notice on the owner of the dwelling or house requiring him to do so, he will within the period of 21 days beginning on the date on which the notice was served furnish to the Executive a statement showing how that condition is being fulfilled.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the dwelling or house; and any amount which is payable under paragraph (4) shall, until recovered, be deemed to be a charge on the dwelling or house.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the dwelling or house shall pay to the Executive on demand the balance of the cost.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises which is an exempt disposal other than a disposal within Article 85(1)(a) (disposal to associates of person making disposal).

**Meaning of “relevant disposal” and “exempt disposal”**

**102.** Articles 84 and 85 (meaning of “relevant disposal” and “exempt disposal”) apply for the purposes of this Chapter.

**Payment of balance of cost, &c: cessation of conditions**

**103.—**(1) If at any time while a condition of participation under Article 100 or 101 remains in force—

- (a) the assisted participant pays the balance of the cost to the Executive,
- (b) a mortgagee of the interest of the assisted participant in the premises being a mortgagee entitled to exercise a power of sale, makes such a payment,
- (c) the Executive determines not to demand payment on the breach of a condition of participation, or
- (d) the Executive demands payment in whole or in part on the breach of a condition of participation and that demand is satisfied,

that condition and any other conditions of participation shall cease to be in force with respect to the premises of that assisted participant.

(2) An amount paid by a mortgagee under paragraph (1)(b) shall be treated as part of the sums secured by the mortgage and may be discharged accordingly.

(3) The purposes authorised for the application of capital money by sections 21 and 63 of the Settled Land Act 1882 (c. 38) include the making of payments under this Article.

*Supplementary***Power of Department to modify operation of Chapter**

**104.** If the Department so directs in the case of any scheme or any description of scheme, such of the preceding provisions of this Chapter as are specified in the direction shall not apply in relation to that scheme or, as the case may be, in relation to a scheme of that description.

## CHAPTER IV

## HOME REPAIR ASSISTANCE

**Interpretation of Chapter IV**

**105.** In this Chapter “home repair assistance” shall be construed in accordance with Article 106(1).

**Home repair assistance**

**106.—**(1) The Executive may, on application being made to it, give assistance under this Chapter (“home repair assistance”) in the form of a grant or the provision of materials for the carrying out of works of repair, improvement or adaptation to a dwelling.

(2) The Department may by order make provision as to the total amount or value of home repair assistance that may be given—

- (a) on any one application, or
  - (b) in respect of the same dwelling in any period of 3 years.
- (3) Home repair assistance shall not be given in respect of works—

- (a) for which a grant under Chapter II has been approved or in respect of which an application for a grant is pending, or
- (b) which are specified in a group repair scheme approved under Chapter III or prepared and awaiting the approval of the Department.

### **Entitlement to home repair assistance**

**107.**—(1) Subject to the following provisions of this Article, the Executive shall not entertain an application for home repair assistance unless it is satisfied—

- (a) that the applicant is aged 18 or over on the date of the application,
- (b) that he lives in the dwelling as his only or main residence,
- (c) that he has an owner’s interest in the dwelling, or is a tenant of the dwelling, alone or jointly with others, and
- (d) that he has a duty or power to carry out the works in question.

(2) In the case of an application in respect of works to adapt a dwelling to enable an elderly or infirm person to be cared for, the condition in paragraph (1)(b) shall be treated as met if the elderly or infirm person (whether or not the applicant) lives or proposes to live in the dwelling as his only or main residence.

(3) For the purposes of the condition in paragraph (1)(c) “tenant” includes—

- (a) a person who has a protected tenancy or statutory tenancy,
- (b) an employee (whether full-time or part-time) who occupies the dwelling or flat concerned for the better performance of his duties.

(4) For the purposes of the condition in paragraph (1)(c) “tenant” does not include—

- (a) a person who is a tenant of a dwelling-house at a time when the estate of the landlord under the tenancy belongs to—
  - (i) the Crown (whether in right of Her Majesty’s Government in the United Kingdom or in Northern Ireland),
  - (ii) a government department (including a department of the Government of the United Kingdom),
  - (iii) the Executive, or
  - (iv) a registered housing association; or
- (b) a person of such other description as the Department may prescribe.

(5) An application may be made by a person who does not satisfy the condition in paragraph (1)(c) but who occupies the dwelling under a right of exclusive occupation granted for his life or for a period of more than 5 years.

### **Assistance in respect of mobile homes**

**108.**—(1) Subject to the following provisions of this Article, Articles 106 and 107 (home repair assistance) apply in relation to a mobile home as in relation to a dwelling.

(2) For the purposes of those Articles as they apply in relation to a mobile home, any person lawfully in occupation of the mobile home shall be treated as a person with an owner’s interest in or a tenant of a dwelling.

(3) In this Article “mobile home” means a caravan within the meaning of section 25(1) of the Caravans Act (Northern Ireland) 1963 (c. 17) which is a dwelling-house for the purposes of the [Rates \(Northern Ireland\) Order 1977 \(NI 28\)](#).

**Power to make further provision by regulations**

**109.**—(1) The Department may by regulations make provision as to—

- (a) the manner of making an application for home repair assistance and the contents of such an application;
- (b) the procedure for dealing with applications for home repair assistance and for ensuring that works are carried out to any standard specified in the regulations;
- (c) the way in which the amount of home repair assistance to be given on any application is to be determined, and
- (d) the taking into account (in such manner and to such extent as may be prescribed) of the financial circumstances of the applicant.

(2) The Department may by regulations make provision extending or restricting the availability of home repair assistance, by reference to such description of persons, circumstances or other factors as the Department thinks fit.

(3) Regulations under paragraph (2) may proceed wholly or in part by reference to the provisions relating to entitlement to housing benefit, or any other form of assistance, as they have effect from time to time.

## CHAPTER V

## DEFERRED ACTION NOTICES. &amp;c.

**Interpretation of Chapter V**

**110.** In this Chapter—

- “deferred action notice” shall be construed in accordance with Article 111;
- “flat”, “house” and “owner” have the meaning given in Article 2 of the Order of 1981; and
- “flat in multiple occupation” has the same meaning as in Part IV of the Order of 1992.

*Deferred action notices***Deferred action notices**

**111.**—(1) If the Executive is satisfied that a house (including a house in multiple occupation) is unfit for human habitation, but is satisfied that serving a deferred action notice is the most satisfactory course of action, it shall serve such a notice.

(2) A deferred action notice is a notice—

- (a) stating that the premises are unfit for human habitation,
- (b) specifying the works which, in the opinion of the Executive, are required to make the premises fit for human habitation, and
- (c) stating the other courses of action which are available to the Executive if the premises remain unfit for human habitation.

(3) The notice becomes operative, if no appeal is brought, on the expiry of 21 days from the date of the service of the notice and is final and conclusive as to matters which could have been raised on an appeal.

(4) The fact that a deferred action notice has been served does not prevent the Executive from taking any other course of action in relation to the premises at any time.



### **Service of deferred action notices**

**112.**—(1) The Executive shall serve a deferred action notice relating to a house on the owner of the house.

(2) Where the Executive is satisfied that a house which is a flat, or a flat in multiple occupation, is unfit for human habitation by virtue of Article 46(2) of the Order of 1981, it shall also serve the notice on the owner of the building or part of the building in question.

(3) In the case of a house in multiple occupation, the Executive may serve the notice on the person managing the house instead of upon the owner.

(4) Where the Executive serves a notice under paragraph (1), (2) or (3) it shall also serve a copy of the notice on any other person having an estate in the premises concerned.

### **Appeals against deferred action notices**

**113.**—(1) A person aggrieved by a deferred action notice may within 21 days after the service of the notice appeal to the county court.

(2) Without prejudice to the generality of paragraph (1), it is a ground of appeal that—

- (a) making a demolition order under Article 35 of the Order of 1981 or a closing order under Article 38 of that Order, or
- (b) serving a repair notice under Article 41 of that Order,

is a more satisfactory course of action.

(3) Where the grounds on which an appeal is brought are or include that specified in paragraph (2), the court, on hearing the appeal, shall have regard to any guidance given to the Executive under Article 46A of the Order of 1981 or Article 115.

(4) On an appeal the court may make such order either confirming, quashing or varying the notice as it thinks fit.

(5) Where the appeal is allowed and the reason or one of the reasons for allowing the appeal is that—

- (a) making a demolition order under Article 35 of the Order of 1981 or a closing order under Article 38 of that Order, or
- (b) serving a repair notice under Article 41 of that Order,

is a more satisfactory course of action, the judge shall, if requested to do so by the appellant or the Executive, include in his judgment a finding to that effect.

(6) If an appeal is brought, the deferred action notice does not become operative until—

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

and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the notice or decision appealed against.

### **Review of deferred action notices**

**114.**—(1) The Executive may at any time review any deferred action notice served by it, and it shall do so not later than 2 years after the notice becomes operative and at intervals of not more than 2 years thereafter.

The Department may by order amend this paragraph so as to specify such other period or periods as it considers appropriate.

(2) The Executive shall for the purposes of any such review inspect the premises concerned.

For this purpose Articles 13 (power to enter land) and 160 (penalty for obstruction) of the Order of 1981 apply as they apply for the purposes of that Order.

(3) If the Executive is satisfied that the deferred action notice remains the most satisfactory course of action, it shall renew the notice and serve notice of its decision.

(4) The provisions of Article 112 (service of deferred action notice) and Article 113(1) to (5) (appeals against deferred action notices) apply in relation to the Executive's decision to renew a deferred action notice as in relation to the original notice.

(5) If an appeal is brought against the decision to renew a deferred action notice, the notice remains operative until any decision on the appeal, or any further appeal, quashing or varying the notice.

(6) If the Executive takes action in relation to the premises under any of the provisions listed in Article 46A(1) of the Order of 1981, the deferred action notice shall cease to be operative on the relevant notice, order or declaration becoming operative.

### **Guidance by the Department**

**115.**—(1) In deciding for the purposes of Article 111 (deferred action notices) or Article 114 (review of deferred action notices) what is the most satisfactory course of action in relation to any premises, the Executive shall have regard to such guidance as may be given by the Department.

(2) The provisions of Article 46A(2) and (3) of the Order of 1981 (supplementary provisions as to guidance) apply in relation to such guidance.

### *Power to charge for enforcement action*

### **Unfitness for human habitation, &c.: power to charge for enforcement action**

**116.**—(1) The Executive may make such reasonable charge as it considers appropriate as a means of recovering certain administrative and other expenses incurred by it in taking action of any of the following kinds—

- (a) serving a deferred action notice under Article 111 or deciding to renew such a notice under Article 114;
- (b) making a demolition order under Article 35 of the Order of 1981;
- (c) making a closing order under Article 38 of that Order;
- (d) serving a repair notice under Article 41 of that Order.

(2) The expenses are, in the case of the service of a notice under Article 111 or a notice under Article 41 of the Order of 1981, the expenses incurred in—

- (a) determining whether to serve the notice,
- (b) identifying the works to be specified in the notice, and
- (c) serving the notice.

(3) The expenses are, in the case of a decision to renew a notice under Article 114, the expenses incurred in—

- (a) deciding whether to renew the notice, and
- (b) serving notice of the Executive's decision.

(4) The expenses are, in the case of a demolition order under Article 35 of the Order of 1981 or a closing order under Article 38 of that Order, the expenses incurred in—

- (a) determining whether to make the order, and
- (b) serving notice of the order.

(5) The amount of the charge shall not exceed such amount as is specified by order of the Department.

(6) Where a court allows an appeal against the underlying notice, decision or order mentioned in paragraph (1), it may make such order as it thinks fit reducing, quashing or requiring the repayment of any charge under this Article made in respect of the notice, decision or order.

### **Recovery of charge for enforcement action**

**117.**—(1) The following provisions have effect with respect to the recovery of a charge under Article 116.

(2) The charge may be recovered by the Executive from—

- (a) in the case of a notice under Article 111 or a notice under Article 41 of the Order of 1981, any person on whom the notice is served;
- (b) in the case of a renewal of a notice under Article 114, any person on whom notice of the decision to renew the notice is served;
- (c) in the case of an order under Article 35 or 38 of the Order of 1981, any person on whom notice of the order is served as an owner of the premises.

(3) A demand for payment of the charge shall be served on the person from whom the Executive seeks to recover it.

(4) The demand becomes operative, if no appeal is brought against the underlying notice, decision or order, on the expiry of the period of 21 days from the service of the demand.

(5) The sum recoverable by the Executive is, until recovered, a charge on the premises concerned; and—

- (a) the charge takes effect when the demand becomes operative, and
- (b) the charge shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the Executive by the person on whose estate the charge has been created (with, where necessary, any authorisation or consent required by law); and
- (c) the Executive may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 (c. 41) on mortgagees by deed accordingly.

(6) A charge under paragraph (5) shall be included in the matters required to be registered in the Statutory Charges Register.

### *Supplementary*

#### **Power to prescribe forms**

**118.** The Department may by regulations prescribe the form of and the particulars to be contained in—

- (a) a deferred action notice, or a notice of the Executive's decision to renew a deferred action notice, or
- (b) a demand for payment of any charge under Article 116 (power to charge for enforcement action).

CHAPTER VI  
SUPPLEMENTARY PROVISIONS

*Religious denominations, charities, &c.*

**Religious denominations, charities, &c.**

**119.**—(1) The provisions of Chapter II (main grants) mentioned below do not apply to—

- (a) an application for a grant by a religious denomination or body, or on behalf of a religious denomination or body by the trustees of the denomination or body; and
- (b) an application for a grant made by a charity or on behalf of a charity by the trustees of the charity.

(2) Those provisions are—

- (a) Articles 40 to 42 (conditions for application for renovation grant);
- (b) Articles 50, 52 and 53 (conditions for application for disabled facilities grant);
- (c) Articles 56 and 57 (conditions for application for HMO grant).

(3) In considering under Article 62 the amount (if any) of the grant where the applicant is a charity or the application is in respect of a religious denomination, the Executive shall have regard, in addition to the matters mentioned in that Article, to any obligation or practice on the part of the applicant to let dwellings at a rent less than that which could be obtained on the open market.

(4) In Chapter III (group repair schemes), in Article 94(2) (persons eligible to participate in group repair scheme as assisted participants) the requirement in sub-paragraph (a) that a person give an owner-occupation certificate or a certificate of intended letting does not apply if—

- (a) the person concerned is a charity or the trustee of a charity, or
- (b) the dwelling is the residence house of a religious denomination,

and the requirement in sub-paragraph (b) that a person give a certificate of future occupation does not apply if the person concerned is a charity or the trustee of a charity.

(5) In Chapter IV (home repair assistance), Article 107(1)(c) (condition that applicant have owner's interest or tenancy) does not apply to an application by an individual in respect of the residence house of a religious denomination.

(6) In this Article “charity” does not include a registered housing association but, subject to that, has the same meaning as in the Charities Act (Northern Ireland) 1964 (c. 33).

*Transitional provisions and savings*

**Transitional provisions and savings**

**120.**—(1) The provisions of Chapters II to IV of this Part have effect in place of Chapter I of Part III of the Order of 1992 (grants towards cost of improvements and repairs, &c.).

(2) Subject as follows, the provisions of Chapter I of Part III of that Order continue to apply to applications for grant of the descriptions mentioned in Article 39 of that Order made before the day of the coming into operation of this Part.

(3) Articles 50 and 51 of that Order (which require the Executive to approve certain grant applications) do not apply to an application under that Chapter, made after such date as may be prescribed which has not been approved or refused before the day of the coming into operation of this Part, unless—

- (a) the 6 month period under Article 54(1) of that Order (period within which applicant to be notified of decision) has elapsed before that day, or
- (b) the works were begun on or before such date as may be prescribed—
  - (i) in an emergency, or
  - (ii) in order to comply with a notice under Article 80 of that Order (notice requiring works to render premises fit for number of occupants) or Article 41 of the Order of 1981 (repair notice requiring works to render premises fit for human habitation).

(4) An application to which Article 50 or 51 of the Order of 1992 would have applied but for paragraph (3) shall be dealt with after the day of the coming into operation of this Part as if those Articles were omitted from Chapter I of Part III of that Order.

(5) The repeal by this Order of Chapter I of Part III of the Order of 1992 shall not affect paragraph (3)(c) of Article 73 of that Order or any regulations made under that paragraph prescribing provisions of that Chapter which are to apply in relation to replacement grants.

(6) The above provisions do not affect the power conferred by Article 1(4) to make transitional provision and savings in relation to the coming into operation of this Part, including provision supplementary or incidental to the above provisions.

Supplementary and incidental provision may, in particular, be made adapting the provisions of Chapter I of Part III of the Order of 1992 in the case of applications to which Article 50 or 51 of that Order would have applied but for the above provisions.