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STATUTORY INSTRUMENTS

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**2002 No. 1860**

**The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002**

**Citation and commencement**

1.—(1) This Order may be cited as the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002.

(2) The following provisions—

- (a) this article,
- (b) articles 2 to 9 and Schedule 1,
- (c) article 14 and Schedule 5,
- (d) article 15 and Schedule 6, in so far as they relate to—
  - (i) the Local Government Act 1988<sup>(1)</sup>,
  - (ii) the Government of Wales Act 1998<sup>(2)</sup>, and
  - (iii) the 1989 Act, except sections 93 and 169,

shall come into force on the day after that on which this Order is made.

(3) The following provisions—

- (a) article 10 and Schedule 2,
- (b) article 11 and Schedule 3,
- (c) article 12 and Schedule 4,
- (d) article 13,
- (e) article 15 and Schedule 6 (in so far as they are not already in force),

shall come into force on the day that falls 12 months after the day on which this Order is made.

**Interpretation**

2. In this Order, unless the context otherwise requires—

“the 1996 Act” means the Housing Grants, Construction and Regeneration Act 1996<sup>(3)</sup>;

“the 1989 Act” means the Local Government and Housing Act 1989<sup>(4)</sup>;

“the 1985 Act” means the Housing Act 1985<sup>(5)</sup>;

“the appropriate Minister”—

- (a) in relation to a local housing authority in England, means the Secretary of State;
- (b) in relation to a local housing authority in Wales, means the National Assembly for Wales;

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(1) 1988 c. 9.  
(2) 1998 c. 38.  
(3) 1996 c. 53.  
(4) 1989 c. 42.  
(5) 1985 c. 68.

“assistance” means assistance under article 3;

“assisted work” means work of any description in relation to the carrying out of which assistance is provided;

“living accommodation” means any of the following—

- (a) a building or part of a building;
- (b) a caravan, within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960<sup>(6)</sup> (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968<sup>(7)</sup>); and
- (c) a boat or similar structure,

occupied or available for occupation for residential purposes (whether, in the case of a building or part of a building, in single or multiple units); and includes any yard, garden, outhouses and appurtenances belonging to the building or, as the case may be, the caravan, or the boat or similar structure, or usually enjoyed with it;

“local housing authority” means a district council, a London borough council, the Common Council of the City of London, a Welsh county council or county borough council, or the Council of the Isles of Scilly.

### **Power of local housing authorities to provide assistance**

**3.—**(1) For the purpose of improving living conditions in their area, a local housing authority may provide, directly or indirectly, assistance to any person for the purpose of enabling him—

- (a) to acquire living accommodation (whether within or outside their area);
- (b) to adapt or improve living accommodation (whether by alteration, conversion or enlargement, by the installation of any thing or injection of any substance, or otherwise);
- (c) to repair living accommodation;
- (d) to demolish buildings comprising or including living accommodation;
- (e) where buildings comprising or including living accommodation have been demolished, to construct buildings that comprise or include replacement living accommodation.

(2) The power conferred by paragraph (1)(a) may be exercised to assist a person to acquire living accommodation only where the authority—

- (a) have acquired or propose to acquire (whether compulsorily or otherwise) his existing living accommodation; or
- (b) are satisfied that the acquisition of other living accommodation would provide for that person a benefit similar to that which would be provided by the carrying out of work of any description in relation to his existing living accommodation.

(3) Assistance may be provided in any form.

(4) Assistance may be unconditional or subject to conditions, including conditions as to the repayment of the assistance or of its value (in whole or in part), or the making of a contribution towards the assisted work; but before imposing any such condition, or taking steps to enforce it, a local housing authority shall have regard to the ability of the person concerned to make that repayment or contribution.

(5) Before a local housing authority provide assistance to any person, they shall—

- (a) give to that person a statement in writing of the conditions (if any) to which the assistance is to be subject; and

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<sup>(6)</sup> 1960 c. 62.

<sup>(7)</sup> 1968 c. 52.

- (b) satisfy themselves that that person has received appropriate advice or information about the extent and nature of any obligation (whether financial or otherwise) to which he will become subject in consequence of the provision of assistance.
- (6) A local housing authority may take any form of security in respect of the whole or part of any assistance.
- (7) Where any such security is taken in the form of a charge on any property, the local housing authority may at any time reduce the priority of the charge or secure its removal.
- (8) This article is subject to articles 4 and 5.
- (9) Nothing in this article affects any power of a local housing authority under Part 14 of the 1985 Act (loans for acquisition or improvement of housing).

#### **Provision of assistance: supplementary**

4. A local housing authority may not exercise the power conferred by article 3 in any case unless—
- (a) they have adopted a policy for the provision of assistance under that article;
  - (b) they have given public notice of the adoption of the policy;
  - (c) they have secured that—
    - (i) a document in which the policy is set out in full is available for inspection, free of charge, at their principal office at all reasonable times; and
    - (ii) copies of a document containing a summary of the policy may be obtained by post (on payment, where a reasonable charge is made, of the amount of the charge); and
  - (d) the power is exercised in that case in accordance with that policy.

#### **Protective provisions**

- 5.—(1) A local housing authority may not provide assistance for a purpose specified in article 3(1)(b), (c) or (d) unless they are satisfied that the owner of the living accommodation concerned has consented to the carrying out of the assisted work.
- (2) For the purposes of paragraph (1), “owner”—
- (a) in relation to living accommodation comprising a building or part of a building, means the person who—
    - (i) is for the time being entitled to receive from a tenant of the accommodation (or would be so entitled if the accommodation were let) a rent at an annual rate of not less than two-thirds of the net annual value of the accommodation; and
    - (ii) is not himself liable as tenant of the accommodation, or of property which includes the accommodation, to pay such a rent to a superior landlord;
  - (b) in relation to living accommodation comprising a caravan or a boat or similar structure, means the person who is for the time being entitled to dispose of the caravan or boat or similar structure.
- (3) In paragraph (2), “net annual value”, in relation to living accommodation, means the rent at which the accommodation might reasonably be expected to be let from year to year if the tenant undertook to pay all usual tenant’s rates and taxes and to bear the cost of repair and insurance and the other expenses, if any, necessary to maintain the accommodation in a state to command that rent.
- (4) Any dispute arising as to the net annual value of living accommodation shall be referred in writing for decision by the district valuer.

(5) In paragraph (4), “district valuer”, in relation to living accommodation in respect of which a person has applied or proposes to apply to a local housing authority for assistance, means an officer of the Commissioners of Inland Revenue appointed by the Commissioners for the purpose of deciding, in relation to the authority, any dispute under that paragraph.

(6) Where a local housing authority have specified, or approved the specification for, assisted work, they shall not vary, or require the variation of, that specification unless they have obtained the consent of every person who, in the authority’s opinion, is likely to be affected to any material extent by the variation.

(7) A local housing authority shall not vary or revoke any condition to which assistance is subject except on the application or with the consent of the person to whom the assistance was provided.

### **Provision of information and evidence**

6. A local housing authority may require a person—

- (a) to whom assistance has been provided; or
- (b) who has applied for assistance,

to give to them, within such period as they may reasonably specify, such information or evidence (including information or evidence relating to his financial circumstances) as the authority may reasonably require for the purposes of, or purposes connected with, the exercise of their powers under article 3.

### **Contributions towards expenditure of local housing authorities**

7.—(1) Contributions towards expenditure incurred by a local housing authority in providing assistance may be paid by the appropriate Minister.

(2) The rate or rates of the contributions, the calculation of the expenditure to which they relate and the manner of their payment shall be determined by the appropriate Minister.

(3) A determination under paragraph (2)—

- (a) may be made generally or with respect to a particular local housing authority or description of authority, including a description framed by reference to authorities in a particular area, and
- (b) may make different provision in relation to different cases or descriptions of case.

(4) Contributions under this article shall be payable subject to such conditions as to records, certificates, audit or otherwise as the appropriate Minister may impose.

(5) Where the appropriate Minister is the Secretary of State, the consent of the Treasury is required before any determination is made under paragraph (2) or any conditions are imposed under paragraph (4).

### **Recovery of contributions**

8.—(1) Where the appropriate Minister has paid contributions under article 7 to a local housing authority, he may recover from the authority such amount as he determines to be appropriate in respect of repayments of assistance.

(2) The amount shall be calculated by reference to the amount appearing to the appropriate Minister to represent his contribution to—

- (a) assistance in respect of which repayments have been made to the authority, or
- (b) assistance in respect of which repayments could have been recovered if reasonable steps had been taken by the authority,

together with an appropriate percentage of any interest received by the authority, or which would have been received if reasonable steps had been taken by the authority.

(3) The question what steps it would have been reasonable for the authority to take shall be determined by the appropriate Minister.

### **Amendments consequential on article 3**

9. Schedule 1, which makes amendments consequential on article 3, shall have effect.

### **Amendment of section 435 of the 1985 Act and consequential provision**

10.—(1) Section 435 of the 1985 Act (power of local authorities to advance money) is amended in accordance with Part 1 of Schedule 2.

(2) Part 2 of that Schedule, which makes provision consequential on paragraph (1), shall have effect.

(3) Nothing in paragraph (1) or (2) affects advances made by a local authority under section 435(1)(d) of the 1985 Act (advances for altering, enlarging, repairing or improving houses or for facilitating repayment of previous loans) before the date on which this article comes into force.

### **Amendment of the 1996 Act**

11.—(1) The 1996 Act is amended in accordance with Schedule 3.

(2) Paragraph (1) does not apply in relation to—

- (a) applications approved under Chapter 1 of Part 1 of the 1996 Act (the main grants) or Chapter 3 of that Part (home repair assistance) before the date on which this article comes into force; or
- (b) schemes under Chapter 2 of that Part (group repair schemes) in respect of which the date of approval<sup>(8)</sup> is before the date on which this article comes into force.

### **Other consequential amendments**

12. Schedule 4, which amends enactments in consequence of article 11, has effect.

### **Amendment of section 93 of the 1989 Act**

13.—(1) Section 93 of the 1989 Act (general powers of local housing authority) is amended as follows.

(2) In subsection (5), omit paragraph (b) (and the word “and” immediately preceding it) and the words following it.

(3) In subsection (6), omit “all or any of”.

(4) Nothing in paragraph (1) affects the provision of assistance under section 93 of the 1989 Act in a case in which an agreement to provide that assistance was entered into before the date on which this article comes into force.

### **Amendment of Part 7 of the 1989 Act**

14.—(1) Part 7 of the 1989 Act (renewal areas) is amended in accordance with Schedule 5.

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<sup>(8)</sup> For the date of approval in the case of group repair schemes not submitted for specific approval *see* section 64(1) of the Housing Grants, Construction and Regeneration Act 1996.

(2) Paragraph (1) does not apply in relation to renewal areas declared before the date on which this article comes into force.

### **Repeals**

**15.**—(1) The enactments specified in Schedule 6 are repealed to the extent specified.

(2) Any transitional provision made by—

- (a) paragraph (3) of article 10,
- (b) paragraph (2) of article 11,
- (c) paragraph (4) of article 13, or
- (d) paragraph (2) of article 14,

applies in relation to any repeal made by Schedule 6 as it applies to any amendments to which the repeal relates.

Signed by authority of the Secretary of State for Transport, Local Government and the Regions

*Jeff Rooker*  
Minister of State,  
Department for Transport, Local Government  
and the Regions

18th July 2002

*Paul Murphy*  
Secretary of State for Wales

29th May 2002