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STATUTORY INSTRUMENTS

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**1988 No. 1990 (N.I. 23)**

**The Housing (Northern Ireland) Order 1988 <sup>F1</sup>**

- - - - - 14th November 1988

**F1** functions transf. by SR 1999/481

**PART I**  
**INTRODUCTORY**

**Title and commencement**

- 1.—(1) This Order may be cited as the Housing (Northern Ireland) Order 1988.
- (2) The following provisions shall come into operation on such day or days as the Head of the Department may by order appoint<sup>F2</sup>
- (a) Part II;
  - (b) Article 32, in so far as it relates to the provision mentioned in sub#paragraph ( d );
  - (c) Schedule 1; and
  - (d) in Schedule 3, paragraph ( b ) of the repeal relating to Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- <sup>F3</sup>(3) The other provisions of this Order shall come into operation on the expiration of 2 months from the day on which it is made.

**F2** fully exercised by SR 1989/42

**F3** 1972 NI 14

**Interpretation**

- 2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>F4</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.
- (2) In this Order—
- “the Department” means the Department of the Environment;
  - “the Executive” means the Northern Ireland Housing Executive;
  - “the Order of 1981” means the Housing (Northern Ireland) Order 1981<sup>F5</sup>;
  - “the Order of 1983” means the Housing (Northern Ireland) Order 1983<sup>F6</sup>;

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**Changes to legislation:** There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1988. (See end of Document for details)

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“the Order of 1986” means the Housing (Northern Ireland) Order 1986<sup>F7</sup>.

<b>F4</b>	1954 c. 33 (NI)
<b>F5</b>	1981 NI 3
<b>F6</b>	1983 NI 15
<b>F7</b>	1986 NI 13

## PART II

### HOUSING THE HOMELESS

#### *Main definitions*

#### **Homelessness and threatened homelessness**

3.—(1) A person is homeless if he has no accommodation<sup>F8</sup> available for his occupation in the United Kingdom or elsewhere].

(2) A person shall be treated as having no accommodation if there is no accommodation which he, together with any other person who normally resides with him as a member of his family or in circumstances in which it is reasonable for that person to reside with him—

- (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, or
- (b) has an express or implied licence to occupy, or
- (c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of another person to recover possession.

(3) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.

(4) Regard may be had, in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in Northern Ireland.

(5) A person is also homeless if he has accommodation but—

- (a) he cannot secure entry to it, or
- (b) it is probable that occupation of it will lead to violence from some other person residing in it or to threats of violence from some other person residing in it and likely to carry out the threats, or
- (c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted to place it and to reside in it.

(6) A person is threatened with homelessness if it is likely that he will become homeless within 28 days from the day on which he gives written notice to the Executive that he is threatened with homelessness.

<b>F8</b>	2003 NI 2
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### **Meaning of accommodation available for occupation**

4. For the purposes of this Part accommodation shall be regarded as available for a person's occupation only if it is available for occupation both by him and by any other person who might reasonably be expected to reside with him; and references to securing accommodation for a person's occupation shall be construed accordingly.

### **Priority need for accommodation**

5.—(1) The following have a priority need for accommodation—

- (a) a pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside;
- (b) a person with whom dependent children reside or might reasonably be expected to reside;
- (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
- (d) a person who is homeless or threatened with homelessness as a result of an emergency such as a flood, fire or other disaster;
- (e) a person without dependent children who satisfies the Executive that he has been subject to violence and is at risk of violent pursuit or, if he returns home, is at risk of further violence;
- (f) a young person who satisfies the Executive that he is at risk of sexual or financial exploitation.

(2) In paragraph (1)(f) “young person” means a person who is over compulsory school age (within the meaning of Article 46 of the Education and Libraries (Northern Ireland) Order 1986<sup>F9</sup>) and has not attained the age of 21 years.

(3) The Department may by order made subject to affirmative resolution—

- (a) specify further descriptions of persons as having a priority need for accommodation, and
- (b) amend or revoke any part of paragraph (1) or (2).

**F9** 1986 NI 3

### **Becoming homeless intentionally**

6.—(1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation, whether in Northern Ireland or elsewhere, which is available for his occupation and which it would have been reasonable for him to continue to occupy.

(2) A person becomes threatened with homelessness intentionally if he deliberately does or fails to do anything the likely result of which is that he will be forced to leave accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.

(3) For the purposes of paragraph (1) or (2) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.

[<sup>F10</sup>(3A) A person shall be treated as becoming homeless intentionally, or as becoming threatened with homelessness intentionally, if—

- (a) he enters into an arrangement under which he is required to cease to occupy accommodation which it would be reasonable for him to continue to occupy, and
- (b) the purpose of the arrangement is to enable him to become entitled to assistance under this Part,

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and there is no other good reason why he is homeless.]

(4) Regard may be had, in determining whether it would have been reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in Northern Ireland.

**F10** 2003 NI 2

VALID FROM 31/07/2010

*<sup>F11</sup>Executive to publish homelessness strategy and provide advice about homelessness*

**F11** Arts. 6A-6C and preceding cross-heading inserted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), **ss. 1, 19(1)**; S.R. 2010/251, **art. 2**

**Duty of Executive to formulate a homelessness strategy**

**6A.**—(1) The Executive may formulate and publish a homelessness strategy.

(2) The Regional Agency and the Regional Board shall give such assistance in connection with the exercise of the power under paragraph (1) as the Executive may reasonably require.

(3) The Executive shall exercise that power so as to ensure that the first homelessness strategy is published within the period of 12 months beginning with the day on which section 1 of the Housing (Amendment) Act (Northern Ireland) 2010 comes into operation.

(4) The Executive shall exercise that power so as to ensure that a new homelessness strategy is published within the period of 5 years beginning with the day on which its last homelessness strategy was published.

(5) The following shall take the homelessness strategy into account in the exercise of their functions—

- (a) the Executive;
- (b) the Regional Board;
- (c) Health and Social Care trusts;
- (d) education and library boards;
- (e) registered housing associations;
- (f) district councils;
- (g) the Secretary of State (in relation to any function exercisable in connection with prisons in Northern Ireland);
- (h) the Probation Board for Northern Ireland;
- (i) the Department of Education;
- (j) the Department for Employment and Learning;
- (k) the Department of Health, Social Services and Public Safety;
- (l) the Department for Social Development.

(6) Nothing in paragraph (5) affects any duty or requirement arising apart from this Article.

### **Homelessness strategy**

**6B.**—(1) For the purposes of this Order “homelessness strategy” means a strategy for—

- (a) preventing homelessness in Northern Ireland;
- (b) securing that sufficient accommodation is and will be available for people in Northern Ireland who are or may become homeless;
- (c) securing the satisfactory provision of advice and assistance for people in Northern Ireland—
  - (i) who are or may become homeless; or
  - (ii) who have been homeless and need advice and assistance to prevent them becoming homeless again.

(2) A homelessness strategy may include specific objectives to be pursued, and specific action planned to be taken, in the course of the exercise of—

- (a) the functions of the Executive;
- (b) the functions of the Regional Board; or
- (c) the functions of Health and Social Care trusts.

(3) A homelessness strategy may also include provision relating to specific action which the Executive expects to be taken—

- (a) by any statutory body with functions (not being functions mentioned in paragraph (2)) which are capable of contributing to the achievement of any of the objectives mentioned in paragraph (1); or
- (b) by any voluntary organisation or other person whose activities are capable of contributing to the achievement of any of those objectives.

(4) The inclusion in a homelessness strategy of any provision relating to action mentioned in paragraph (3) requires the approval of the body or person concerned.

(5) In formulating a homelessness strategy the Executive shall consider (among other things) the extent to which any of the objectives mentioned in paragraph (1) can be achieved through action involving two or more of the bodies or other persons mentioned in paragraphs (2) and (3).

(6) The Executive shall keep its homelessness strategy under review and may modify it.

(7) If the Executive modifies its homelessness strategy, it shall publish the modifications or the strategy as modified (as it considers most appropriate).

(8) Before adopting or modifying a homelessness strategy the Executive shall consult such statutory bodies, voluntary organisations or other persons as it considers appropriate.

(9) The Executive shall—

- (a) make a copy of everything published under Article 6A or this Article available at its district offices for inspection at all reasonable hours, without charge, by members of the public; and
- (b) provide (on payment, if required by the Executive, of a reasonable charge) a copy of anything so published to any member of the public who asks for one.

### **Articles 6A and 6B: interpretation**

**6C** In Articles 6A and 6B—

“the Regional Agency” means the Regional Agency for Public Health and Social Well-being established under section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

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“the Regional Board” means the Regional Health and Social Care Board established under section 7 of that Act;

“registered housing association” means a registered housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992;

“voluntary organisation” means a body which is not a statutory body and whose activities are carried on otherwise than for profit.

**[<sup>F12</sup>Duty of the Executive to provide advice**

**6D.**—(1) The Executive shall secure that advice about homelessness, and the prevention of homelessness, is available free of charge to any person in Northern Ireland.

(2) The Executive may give to any person by whom such advice is provided on behalf of the Executive assistance by way of grant or loan.

(3) The Executive may also assist any such person—

- (a) by permitting him to use premises belonging to the Executive,
- (b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and
- (c) by making available the services of staff employed by the Executive.

(4) In relation to the form and content of advice under paragraph (1) the Executive shall have regard to any guidance issued by the Department.]]

**F12** Art. 6D inserted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\), ss. 2, 19\(1\); S.R. 2010/251, art. 2](#)

*Duties of the Executive with respect to homelessness and threatened homelessness*

**Inquiry into cases of possible homelessness or threatened homelessness**

7.—(1) If—

- (a) a person (an “applicant”) applies to the Executive for accommodation, or for assistance in obtaining accommodation, and
- (b) the Executive has reason to believe that he may be homeless or threatened with homelessness,

it shall make such inquiries as are necessary to satisfy itself as to whether he is homeless or threatened with homelessness.

(2) If the Executive is so satisfied it shall make any further inquiries necessary to satisfy itself as to—

- (a) whether the applicant has a priority need, and
- (b) whether he became homeless or threatened with homelessness intentionally.

**[<sup>F13</sup>Persons not eligible for housing assistance**

**7A.**—(1) A person is not eligible for assistance under this Part—

- (a) if he is a person from abroad who is subject to immigration control and is ineligible for such assistance by virtue of section 119 of the Immigration and Asylum Act 1999 (c. 33);

- (b) if he is any other person from abroad who is ineligible for such assistance by virtue of regulations made under paragraph (2); or
- (c) if he is a person who the Executive has decided is to be treated as ineligible for such assistance by virtue of paragraph (5).

(2) The Secretary of State may, for the purposes of paragraph (1)(b), make provision by regulations as to other descriptions of persons who are to be treated as persons from abroad who are ineligible for assistance under this Part.

(3) Regulations made under paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

(4) A person from abroad who is not eligible for assistance under this Part shall be disregarded in determining for the purposes of this Part whether another person—

- (a) is homeless or threatened with homelessness, or
- (b) has a priority need for accommodation.

(5) The Executive may decide that an applicant is to be treated as ineligible for assistance under this Part if it is satisfied that—

- (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the Executive; and
- (b) in the circumstances at the time his application is considered, he is unsuitable to be a tenant of the Executive by reason of that behaviour.

(6) The only behaviour which may be regarded by the Executive as unacceptable for the purposes of paragraph (5)(a) is—

- (a) behaviour of the person concerned which would (if he were a secure tenant of the Executive) entitle the Executive to a possession order under Article 29 of the Order of 1983 on Ground 2 or Ground 3 in Schedule 3 to that Order; or
- (b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the Executive) entitle the Executive to such a possession order.

(7) Where the Executive is satisfied that a person is not eligible for assistance under this Part by virtue of paragraph (1)(c) of this Article but has a priority need, it shall treat him in the same manner as an applicant to whom paragraph (3) of Article 10 applies.

(8) Where the Executive is satisfied that a person—

- (a) is not eligible for assistance under this Part by virtue of paragraph (1)(a) or (b); or
- (b) is not eligible for assistance under this Part by virtue of paragraph (1)(c) and does not have a priority need;

it shall treat him in the same manner as an applicant to whom paragraph (4) of Article 10 applies.]

**F13** 2003 NI 2

### **Provision of information by Secretary of State**

**7B.**—(1) The Secretary of State shall, at the request of the Executive, provide the Executive with such information as it may require to enable it to determine for the purposes of paragraph (1)(a) or (b) of Article 7A whether such a person is eligible for assistance under this Part.

(2) Where that information is given otherwise than in writing, the Secretary of State shall confirm it in writing if a written request is made to him by the Executive.

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(3) If it appears to the Secretary of State that any application, decision or other change of circumstances has affected the status of a person about whom information was previously provided by him to the Executive under this Article, he shall inform the Executive in writing of that fact, the reason for it and the date on which the previous information became inaccurate.

#### **Interim duty to accommodate in case of apparent priority need**

8. If the Executive has reason to believe that an applicant may be homeless and have a priority need, it shall secure that accommodation is made available for his occupation pending a decision as a result of its inquiries under Article 7.

#### **Notification of decision and reasons**

9.—(1) On completing its inquiries under Article 7, the Executive shall notify the applicant of its decision on the question whether he is homeless or threatened with homelessness.

(2) If the Executive notifies the applicant that its decision is that he is homeless or threatened with homelessness, it shall at the same time notify him of its decision on the question whether he has a priority need.

(3) If the Executive notifies the applicant that its decision is that he has a priority need, it shall at the same time notify him of its decision whether he became homeless or threatened with homelessness intentionally.

(4) If the Executive notifies the applicant—

- (a) that it is not satisfied that he is homeless or threatened with homelessness, or
- (b) that it is not satisfied that he has a priority need, or
- (c) that it is satisfied that he became homeless or threatened with homelessness intentionally,

it shall at the same time notify him of its reasons.

(5) The notice required to be given to a person under this Article shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available for a reasonable period at the office of the Executive to which he applied, for collection by him or on his behalf.

#### **Duties to persons found to be homeless**

10.—(1) This Article has effect as regards the duties owed by the Executive to an applicant where it is satisfied that he is homeless.

(2) Where the Executive is satisfied that the applicant has a priority need and is not satisfied that he became homeless intentionally, it shall secure that accommodation becomes available for his occupation.

(3) Where the Executive is satisfied that the applicant has a priority need but is also satisfied that he became homeless intentionally, it shall—

- (a) secure that accommodation is made available for his occupation for such period as it considers will give him a reasonable opportunity of securing accommodation for his occupation, and
- (b) furnish him with advice and such assistance as it considers appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.

(4) Where the Executive is not satisfied that the applicant has a priority need, it shall furnish him with advice and such assistance as it considers appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.



### **Duties to persons found to be threatened with homelessness**

11.—(1) This Article has effect as regards the duties owed by the Executive to an applicant where it is satisfied that he is threatened with homelessness.

(2) Where the Executive is satisfied that the applicant has a priority need and is not satisfied that he became threatened with homelessness intentionally, it shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.

(3) Where—

- (a) the Executive is not satisfied that the applicant has a priority need, or
- (b) it is satisfied that he has a priority need but is also satisfied that he became threatened with homelessness intentionally,

it shall furnish him with advice and such assistance as it considers appropriate in the circumstances in any attempts he may make to secure that accommodation does not cease to be available for his occupation.

(4) Paragraph (2) does not affect any right of the Executive, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of accommodation.

### **Provisions supplementary to Articles 8 and 10**

12.—(1) The Executive may perform any duty under Article 8 or 10 (duties to persons found to be homeless) to secure that accommodation becomes available for the occupation of a person—

- (a) by making available suitable accommodation held by it, or
- (b) by securing that he obtains suitable accommodation from some other person, or
- (c) by giving him such advice and assistance as will secure that he obtains suitable accommodation from some other person,

and in determining whether accommodation is suitable the Executive shall have regard to Chapter II of Part III and Part VI of the Order of 1981.

(2) The Executive—

- (a) shall require a person to whom it is subject to a duty under Article 8 or 10 (interim duty to accommodate pending inquiries and duties to persons found to be homeless) to pay rent, in accordance with any rent scheme for the time being approved by the Department under Article 17 of the Order of 1981, in respect of any housing accommodation provided by the Executive itself; or
- (b) may require such a person—
  - (i) to pay such reasonable charges as the Executive may determine in respect of accommodation which it otherwise secures for that person's occupation; or
  - (ii) to pay such reasonable amount as it may determine in respect of sums payable by it for accommodation made available by another person.

### **Protection of property of homeless persons and persons threatened with homelessness**

13.—(1) This Article applies where the Executive has reason to believe that an applicant is homeless or threatened with homelessness (or, in the case of an applicant to whom it owes a duty under Article 8 (interim duty to accommodate pending inquiries), that he may be homeless) and that—

- (a) there is a danger of loss of, or damage to, any personal property of his by reason of his inability to protect it or deal with it, and
- (b) no other suitable arrangements have been or are being made.

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(2) If the Executive has become subject to a duty towards the applicant under Article 8, 10(2) or (3)(a) or 11(2) (duty to accommodate during inquiries and duties to persons found to be homeless or threatened with homelessness), then, whether or not it is still subject to such a duty, it shall take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it; and if it has not become subject to such a duty, it may take any steps it considers reasonable for that purpose.

(3) The Executive may for the purposes of this Article—

- (a) enter, at all reasonable times, any premises which are the usual place of residence of the applicant or which were his last usual place of residence, and
- (b) deal with any personal property of his in any way which is reasonably necessary, in particular by storing it or arranging for its storage.

(4) The Executive may decline to take action under this Article except upon such conditions as it considers appropriate in the particular case, which may include conditions as to—

- (a) the making and recovery by the Executive of reasonable charges for the action taken, or
- (b) the disposal by the Executive, in such circumstances as may be specified, of property in relation to which it has taken action.

(5) When in the Executive's opinion there is no longer any reason to believe that there is a danger of loss of or damage to a person's personal property by reason of his inability to protect it or deal with it, the Executive ceases to have any duty or power to take action under this Article; but property stored by virtue of the Executive having taken such action may be kept in store and any conditions upon which it was taken into store continue to have effect, with any necessary modifications.

(6) Where the Executive—

- (a) ceases to be subject to a duty to take action under this Article in respect of an applicant's property, or
- (b) ceases to have power to take such action, having previously taken such action,

it shall notify the applicant of that fact and of the reason why it is of opinion that there is no longer any reason to believe that there is a danger of loss of or damage to his personal property by reason of his inability to protect it or deal with it.

(7) References in this Article to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.

#### **Certain bodies to co-operate with the Executive**

14. Where, the Executive—

- (a) requests a health and social services board to exercise any of its functions in relation to a case with which the Executive is dealing under Article 7, 8, 10 or 11 (which relate to homelessness and threatened homelessness as such), or to provide any information or advice in relation to such a case; or
- (b) requests the Probation Board for Northern Ireland to provide any information or advice in relation to such a case; or
- (c) requests a registered housing association, within the meaning of Part VII of the Order of 1981, to assist it in the discharge of its functions under those Articles;

that health and social services board, the Probation Board for Northern Ireland or that association, as the case may be, shall co-operate by exercising such of its functions, providing such information or advice or rendering such assistance as is reasonable in the circumstances.

VALID FROM 01/12/2010

*F14* Right to request review of decision

**F14** Arts. 11A-11D and cross-headings inserted (1.12.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), ss. 5(1), 19(1); S.R. 2010/251, art. 3

**Right to request review of decision**

- 11A.**—(1) An applicant has the right to request a review of any decision of the Executive—
- (a) as to the applicant's eligibility for assistance under this Part;
  - (b) as to what duty (if any) is owed to the applicant under Articles 10 (duties to persons found to be homeless) and 11 (duties to persons found to be threatened with homelessness);
  - (c) as to the suitability of accommodation offered to the applicant in discharge of the Executive's duty under either of those Articles.
- (2) There is no right to request a review of the decision reached on an earlier review.
- (3) A request for review must be made before the end of the period of 28 days beginning with the day on which the applicant is notified of the Executive's decision or such longer period as the Executive may in writing allow.
- (4) On a request being duly made to it, the Executive shall review its decision.
- (5) Where the Executive gives a person notice of a decision mentioned in paragraph (1) it shall also inform that person—
- (a) of the right to request a review of the decision and of the time within which such a request must be made;
  - (b) of the effect of Articles 8(3) and 11C(5).

**Procedure on a review**

- 11B.**—(1) The Department may make provision by regulations as to the procedure to be followed in connection with a review under Article 11A. Nothing in the following provisions affects the generality of this power.
- (2) Provision may be made by regulations—
- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the applicant is entitled to an oral hearing, and whether and by whom the applicant may be represented at such a hearing.
- (3) The Executive shall notify the applicant of the decision on the review.
- (4) If the decision is to confirm the original decision on any issue against the interests of the applicant, the Executive shall also notify the applicant of the reasons for the decision.
- (5) In any case the Executive shall inform the applicant of the right to appeal to the county court on a point of law, and of the period within which such an appeal must be made (see Article 11C).
- (6) Notice of the decision shall not be treated as given unless and until paragraph (5), and where applicable paragraph (4), is complied with.

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(7) Provision may be made by regulations as to the period within which the review must be carried out and notice given of the decision.

(8) The notice required to be given to a person under this Article shall be given in writing and shall, if not received by the person, be treated as given to the person only if it is made available for a reasonable period at the office of the Executive to which the person applied, for collection by or on behalf of that person.

(9) Regulations under this Article are subject to negative resolution.

### **Right of appeal to a county court on a point of law**

**11C.**—(1) If an applicant who has requested a review under Article 11A —

- (a) is dissatisfied with the decision on the review, or
- (b) is not notified of the decision on the review within the time prescribed by regulations under Article 11B,

the applicant may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.

(2) An appeal must be brought within 28 days of the applicant's being notified of the decision or, as the case may be, of the date on which the applicant should have been notified of a decision on review.

(3) The court may give leave for an appeal to be brought after the end of the period allowed by paragraph (2), but only if it is satisfied—

- (a) where leave is sought before the end of that period, that there is a good reason for the applicant to be unable to bring the appeal in time; or
- (b) where leave is sought after that time, that there was a good reason for the applicant's failure to bring the appeal in time and for any delay in applying for leave.

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

(5) Where the Executive was under a duty under Article 8(1) or 10(3) to secure that accommodation is available for the applicant's occupation it may secure that accommodation is so available—

- (a) during the period for appealing under this Article against the Executive's decision, and
- (b) if an appeal is brought, until the appeal (and any further appeal) is finally determined.

### **Article 11C(5): appeals**

**11D.**—(1) This Article applies where an applicant has the right to appeal to the county court against the Executive's decision on a review.

(2) If the applicant is dissatisfied with a decision by the Executive—

- (a) not to exercise its power under Article 11C(5) in relation to the applicant's case,
- (b) to exercise its power under Article 11C(5) for a limited period ending before the final determination by the county court of the applicant's appeal under Article 11C(1) (“the main appeal”), or
- (c) to cease exercising its power before that time,

the applicant may appeal to the county court against the decision.

(3) An appeal under this Article may not be brought after the final determination by the county court of the main appeal.

(4) On an appeal under this Article the court—

- (a) may order the Executive to secure that accommodation is available for the applicant's occupation until the determination of the appeal (or such earlier time as the court may specify), and
- (b) shall confirm or quash the decision appealed against,

and in considering whether to confirm or quash the decision the court shall apply the principles applied by the High Court on an application for judicial review.

(5) If the court quashes the decision it may order the Executive to exercise its power under Article 11C(5) in the applicant's case for such period as may be specified in the order.

(6) An order under paragraph (5)—

- (a) may only be made if the court is satisfied that failure to exercise any power under Article 11C(5) in accordance with the order would substantially prejudice the applicant's ability to pursue the main appeal;
- (b) may not specify any period ending after the final determination by the county court of the main appeal.]

#### *Assistance for voluntary organisations*

#### **Financial and other assistance for voluntary organisations concerned with homelessness**

**15.**—(1) Without prejudice to Article 28(1)(g) of the Order of 1981, the Executive may, upon such terms and subject to such conditions as it may determine, give to a voluntary organisation concerned with homelessness, or with matters relating to homelessness, assistance by way of grant or loan.

(2) The Executive may also assist such a voluntary organisation by—

- (a) permitting them to use premises belonging to the Executive upon such terms and subject to such conditions as may be agreed,
- (b) making available furniture or other goods, whether by way of gift, loan or otherwise, and
- (c) making available the services of staff employed by the Executive.

(3) No assistance shall be given under paragraph (1) or (2) unless the voluntary organisation first give an undertaking—

- (a) that they will use the money, furniture or other goods or premises made available to them for a specified purpose, and
- (b) that they will, if the Executive serves notice on them requiring them to do so, furnish, within the period of 21 days beginning with the date on which the notice is served, a certificate giving such information as may reasonably be required by the notice with respect to the manner in which the assistance given to them is being used.

(4) The conditions subject to which assistance is given under this Article shall in all cases include, in addition to any conditions determined or agreed under paragraph (1) or (2), conditions requiring the voluntary organisation to—

- (a) keep proper books of account and have them audited in such manner as may be specified,
- (b) keep records indicating how they have used the money, furniture or other goods or premises made available to them, and
- (c) submit the books of account and records for inspection by the Executive.

(5) If it appears to the Executive that the voluntary organisation have failed to carry out their undertaking as to the purpose for which the assistance was to be used, the Executive shall take all

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reasonable steps to recover from the organisation an amount equal to the amount of the assistance; but no sum is so recoverable unless the Executive has first served on the voluntary organisation a notice specifying the amount which, in the opinion of the Executive, is recoverable and the basis on which that amount has been calculated.

(6) In this Article “voluntary organisation” means a body, not being a district council or other public body, within the meaning of section 146(2) of the Local Government Act (Northern Ireland) 1972<sup>F15</sup>, whose activities are carried on otherwise than for profit.

**F15** 1972 c. 9 (NI)

### *Hostel accommodation for persons in need*

#### **Transfer of hostels**

**16.—**(1) In Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>F16</sup>, in the definition of “person in need” sub#paragraph ( c ) shall be omitted as from the appointed day.

(2) The provisions of Schedule 1 shall have effect to facilitate the transfer to the Executive of hostels provided by the Department of Health and Social Services and health and social services boards for persons in need.

(3) In this Article—

- (a) “appointed day” means the day appointed for the coming into operation of this Article; and
- (b) “persons in need” means persons who have been rendered homeless and are in need of temporary accommodation.

**F16** 1972 NI 14

### *Supplemental*

#### **False statements, withholding information and failure to disclose change of circumstances**

**17.—**(1) If a person, with intent to induce the Executive to believe, in connection with the exercise of its functions under this Part, that he or another person—

- (a) is homeless or threatened with homelessness, or
- (b) has a priority need, or
- (c) did not become homeless or threatened with homelessness intentionally,

knowingly or recklessly makes a statement which is false in a material particular, or knowingly withholds information which the Executive has reasonably required him to give in connection with the exercise of those functions, he commits an offence.

(2) If before an applicant receives notification of the Executive's decision on his application there is any change of facts material to his case, he shall notify the Executive as soon as possible; and the Executive shall explain to every applicant, in ordinary language, the duty imposed on him by this paragraph and the effect of paragraph (3).

(3) A person who fails to comply with paragraph (2) commits an offence unless he shows that he was not given the explanation required by that paragraph or that he had some other reasonable excuse for non#compliance.

(4) A person guilty of an offence under this Article is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## PART III

### MISCELLANEOUS PROVISIONS

*Arts. 18#24 rep. by 1992 NI 15*

*Amendments of the Order of 1981*

#### **Financing the Executive**

**25.**—(1) In Article 15 of the Order of 1981—

(a) for paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) The Department of Finance and Personnel may make advances to the Executive of such amounts and on such terms as that Department thinks fit.

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

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

“(4) In paragraph (3)—

(a) the reference to sums issued under paragraph (2) includes sums issued under that paragraph as it had effect before the day of the coming into operation of Article 25 of the Housing (Northern Ireland) Order 1988, and

(b) the reference to advances made under paragraph (1) includes advances made under that paragraph as it had effect before that day.” .

(2) In Article 16(1) of the Order of 1981, after the word “with” there shall be inserted the words “the consent of the Department and with” .

#### **Re#development areas**

**26.** In Article 47 of the Order of 1981, after paragraph (1) there shall be inserted the following paragraph—

“(1A) In relation to paragraph (1)( a ) land is used for housing purposes if there is on the land a building constructed or adapted for housing purposes, whether or not the building is for the time being used or capable of being used for those purposes.” .

#### **Transfer of Executive's mortgages**

**27.** After Article 88 of the Order of 1981 there shall be inserted the following Articles—

##### **“Transfer of mortgages by the Executive**

**88A.**—(1) The Executive shall not dispose of its interest as mortgagee of land without the prior written consent of the mortgagor (or, if there is more than one mortgagor, of all of them) specifying the name of the person to whom the interest is to be transferred.

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- (2) Consent given for the purposes of this Article—
- (a) may be withdrawn by notice in writing to the Executive at any time before the instrument effecting the disposal is made, and
  - (b) ceases to have effect if the instrument effecting the disposal is not made within six months after it is given;

and if consent is withdrawn or ceases to have effect, the Executive shall return to the mortgagor any document in its possession by which he gave his consent.

(3) A disposal made without the consent required by this Article is void, subject to paragraph (4).

(4) If consent has been given and the Executive certifies in the instrument effecting the disposal that it has not been withdrawn or ceased to have effect, the disposal is valid notwithstanding that consent has been withdrawn or ceased to have effect.

(5) In such a case any person interested in the equity of redemption may, within six months of the disposal, by notice in writing served on the Executive, require the Executive, the transferee and any person claiming under the transferee to undo the disposal, on such terms as may be agreed between them or determined by the county court, and execute any documents and take any other steps necessary to vest back in the Executive the interest disposed of by it to the transferee.

- (6) Without prejudice to Article 10, the Department may direct the Executive—
- (a) to give to a mortgagor whose consent is sought such information as the Department may direct;
  - (b) as to the form of the document by which a mortgagor's consent is to be obtained;
  - (c) to secure that notice of the fact that the disposal has been made is given to the mortgagor, and
  - (d) as to the form of that notice and the period (being a period of not less than 28 days from the date of the disposal) within which that notice must be given.

(7) Paragraph 2 of Part II of Schedule 5 to the Land Registration Act (Northern Ireland) 1970<sup>F17</sup> (Registrar of Titles to note certain restrictive provisions) shall not apply in relation to this Article or Article 88B.

### **Certain transfers to require Department's approval**

**88B.**—(1) The Executive shall not, in the following circumstances, dispose of its interest as mortgagee of land, without the approval of the Department.

(2) The circumstances are that, under the terms of the disposal or of any arrangement entered into in connection with the disposal—

- (a) any benefits or burdens of the mortgagee are retained by, or transferred to, the Executive, or
- (b) the transferee can call on the Executive to re#acquire any interest transferred or to redeem the mortgage, or
- (c) the consideration for the transfer is other than a cash sum determined at the date of the transfer, or
- (d) the transfer is carried out in consideration of some other transaction or the Executive may be required to enter into an agreement with a third party.

(3) The Department may by regulations amend paragraph (2) or provide for other circumstances in which the disposal by the Executive of its interest as mortgagee of land requires the approval of the Department.”



**F17** 1970 c. 18 (NI)

Art. 28 rep. by 1992 NI 15

*Other provisions*

**Scheme for purchase of evacuated dwellings**

**29.**—(1) The Executive shall submit to the Department a scheme making provision for the Executive to acquire by agreement houses owned by persons who, in consequence of acts of violence, threats to commit such acts or other intimidation, are unable or unwilling to occupy those houses.

(2) A scheme submitted under paragraph (1) may include provision as to—

- (a) the circumstances in which the Executive may acquire a house under the scheme;
- (b) the manner in which the purchase price is to be determined;
- (c) the fittings which the Executive may purchase when acquiring a house under the scheme;
- (d) the disposal of such houses; and
- (e) such other matters as the Executive considers appropriate.

(3) A scheme submitted under paragraph (1) shall provide that, where any part of a house is used for purposes other than those of a dwelling, the Executive shall not acquire the house under the scheme, except with the consent of the Department.

(4) A scheme submitted under paragraph (1) may provide that where—

- (a) the Executive is to acquire a house under the scheme, and
- (b) there is land contiguous to that house which is not part of the curtilage of the house,

the Executive may, with the consent of the Department, acquire that land.

(5) Paragraph (2) shall apply in relation to provision made under paragraph (4) in respect of land in the same manner as it applies to provision made under paragraph (1) in respect of houses.

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

(7) The Executive shall comply with a scheme approved by the Department under paragraph (6).

(8) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals for amending a scheme approved under paragraph (6) or a scheme replacing any such scheme and paragraphs (6) and (7) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

(9) In this Article “house” has the meaning given in Article 2(2) of the Order of 1981.

(10) The powers of the Executive shall be deemed always to have included power to make and operate a scheme making provision corresponding to that mentioned in paragraph (1).

**[<sup>F18</sup>Scheme for emergency grants**

**29A.**—(1) The Executive shall submit to the Department a scheme making provision to pay grants to persons—

- (a) who are eligible tenants of houses, and
- (b) who, in consequence of acts of violence, threats to commit such acts or other intimidation, are unable or unwilling to occupy those houses.

(2) A person is an eligible tenant of a house for the purposes of a scheme if, and only if, he has—

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- (a) a secure tenancy, within the meaning of Article 25 of the Order of 1983;
  - (b) a protected tenancy or a statutory tenancy, within the meaning of the Rent (Northern Ireland) Order 1978; or
  - (c) a tenancy of another description specified for the purposes of this paragraph by order of the Department.
- (3) A scheme shall include provision as to—
- (a) the circumstances in which grants are to be payable;
  - (b) the method by which (subject to paragraph (5)) the amount of grant payable to any person is to be calculated;
  - (c) the conditions which may be attached to a grant, including, in particular, conditions for repayment, in circumstances specified in the scheme, of the whole or part of the grant; and
  - (d) any other matter specified by the Department.
- (4) A scheme may include such further provision as the Executive considers appropriate.
- (5) The Department may by order specify the maximum amount of grant which may be paid to a person under a scheme.
- (6) The Department may approve a scheme submitted under paragraph (1) with or without modifications.
- (7) The Executive shall comply with a scheme approved by the Department under paragraph (6).
- (8) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals for amending a scheme approved under paragraph (6) or a scheme replacing any such scheme, and paragraphs (6) and (7) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.
- (9) An order made under paragraph (2)(c) or (5) shall be subject to negative resolution.
- (10) The powers of the Executive shall be deemed always to have included power to make and operate a scheme making provision corresponding to that mentioned in paragraph (1).]

**F18** 2003 NI 2

### **Scheme for emergency house repairs**

- 30.**—(1) The Executive shall submit to the Department a scheme making provision for the Executive to carry out as a matter of urgency repairs to houses damaged—
- (a) in consequence of civil disturbance, or
  - (b) in such other circumstances as the Department may specify in an order made subject to negative resolution.
- (2) A scheme submitted under paragraph (1) may include provision as to—
- (a) the classes of houses to which the scheme applies;
  - (b) the nature of the repairs to be carried out by the Executive under the scheme; and
  - (c) the terms on which the repairs are to be carried out.
- (3) Paragraphs (6) to (8) of Article 29 shall apply in relation to a scheme made under this Article in the same manner as those provisions apply in relation to a scheme made under that Article.
- (4) The powers of the Executive shall be deemed always to have included power to make and operate a scheme making provision corresponding to that mentioned in paragraph (1)(a).

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## PART IV

### SUPPLEMENTARY

*Article 31—Amendments*

*Article 32—Repeals*

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## SCHEDULES

### SCHEDULE 1

Article 16.

#### PROVISIONS TO FACILITATE TRANSFER OF HOSTELS

##### Interpretation

1. In this Schedule “appointed day” and “persons in need” have the meanings given in Article 16(3).

##### Transfer of staff of certain hostels

2.—(1) The Department may make a scheme providing for the transfer on the appointed day to the employment of the Executive of officers who immediately before that day are employed by a health and social services board wholly or mainly for the purposes of providing hostel accommodation for persons in need.

(2) A transferred officer shall, so long as he continues in the employment of the Executive in accordance with a scheme under sub#paragraph (1) and until he is served with a statement in writing by the Executive setting out his new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before the appointed day.

(3) The new terms and conditions referred to in sub#paragraph (2) shall be such that—

- (a) as long as a transferred officer is engaged in duties reasonably comparable to those in which he was engaged immediately before the appointed day, the scale of his salary or remuneration; and
- (b) the other terms and conditions of his employment;

are taken as a whole not less favourable than those he enjoyed immediately before that day.

*Sub-paras. (4),(5) rep. by 1996 NI 16*

(6) Any question arising in relation to a transferred officer as to—

- (a) whether he is or was employed wholly or mainly for the purposes mentioned in sub#paragraph (1);
- (b) whether he is engaged in duties reasonably comparable to those in which he was engaged immediately before the appointed day; or
- (c) whether his terms and conditions of employment taken as a whole are less favourable than those he enjoyed immediately before that day,

shall, if not otherwise determined, be referred for determination by an industrial tribunal whose decision shall be final.

(7) The Department may make regulations providing for the payment by the Executive, on such terms and subject to such conditions as may be specified in the regulations, of compensation to, or in respect of, any transferred officer who suffers subsequent to his transfer loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to the provisions of this paragraph or who on grounds which the Department considers reasonable is unable or unwilling to accept employment with the Executive.

(8) Regulations under sub#paragraph (7) may include provision—

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- (a) as to the manner in which, the time within which and the person to whom any claim for compensation is to be made;
  - (b) for the determination by an industrial tribunal of questions arising under the regulations.
- (9) Regulations under sub#paragraph (7)—
- (a) shall be subject to negative resolution; and
  - (b) may have effect from a date earlier than that on which the regulations are made but not so as to place any person in a worse position than he would have been in if the regulations had effect only from the date of the making thereof.
- (10) In this paragraph—
- “terms and conditions of employment” includes terms and conditions relating to superannuation benefit;
  - “transferred officer” means an officer transferred under a scheme made under sub# paragraph (1).

### Transfer of hostels

- 3.—(1) The Department of Health and Social Services may, with the approval of the Department, enter into an agreement with the Executive for the transfer to the Executive of—
- (a) any real or personal property which immediately before the appointed day was held by the Department of Health and Social Services wholly or partly for the purposes of providing hostel accommodation for persons in need; and
  - (b) any rights and liabilities to which the Department of Health and Social Services was entitled or subject immediately before that day in relation to, or in connection with, any such property.
- (2) A health and social services board may enter into an agreement with the Executive for the transfer to the Executive of—
- (a) any personal property situated in the area of the board which immediately before the appointed day was held by the health and social services board wholly or partly for the purposes of providing hostel accommodation for persons in need; and
  - (b) any rights and liabilities to which the health and social services board was entitled or subject immediately before that day in relation to, or in connection with, any such property.
- (3) An agreement under sub#paragraph (1) or (2) may include provision for the transfer to the Executive of property held on trust by the Department of Health and Social Services or a health and social services board.
- (4) Where any property held on trust is transferred to the Executive by an agreement under sub# paragraph (1) or (2), it shall be held by the Executive on trust for such purposes relating to services provided by the Executive as the Executive thinks fit; but in exercising its discretion under this sub# paragraph the Executive shall secure, as far as is reasonably practicable, that the objects of the trust are not prejudiced.
- (5) Stamp duty shall not be chargeable on any instrument or other document executed for the purposes of transferring property to the Executive under this paragraph.

### Power to make other transitional provisions

4. The Department may by order subject to negative resolution make such other transitional provision as appears to the Department to be necessary or expedient in consequence of the coming into operation of Article 16 or this Schedule.

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*Schedule 2—Amendments*

*Schedule 3—Repeals*

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