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STATUTORY INSTRUMENTS

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**1992 No. 1725**

**The Housing (Northern Ireland) Order 1992**

CHAPTER I

FUNCTIONS OF HOUSING ASSOCIATIONS

**Functions of the Department**

4.—(1) Without prejudice to any specific function conferred on the Department by or under this Part or any other statutory provision, the Department may—

- (a) promote and assist the development of registered housing associations and of unregistered self-build societies;
- (b) facilitate the proper exercise and performance of the functions, and publicise the aims and principles, of registered housing associations and unregistered self-build societies;
- (c) establish and maintain a register of housing associations, exercise supervision and control over registered housing associations, and consider applications for and make payments of grants to registered housing associations.

(2) In the exercise of its functions under paragraph (1)(a) the Department may, with the approval of the Department of Finance and Personnel, make such contributions as it may determine towards the administrative and other expenses of registered housing associations, unregistered self-build societies and such bodies as appear to it to be representative of housing associations.

(3) In exercising its functions under paragraph (1)(a) and (b) the Department may, with the consent of the Department of Finance and Personnel, make grants to voluntary organisations which are not registered housing associations towards the expenses incurred by them in carrying out the objects mentioned in Article 15(3)(f); and any such grant may be made subject to such conditions as the Department may, with the consent of the Department of Finance and Personnel, determine.

(4) For the purposes of paragraph (2) the term “registered housing association” shall include an unregistered housing association which at the date of payment of the contribution has made application to the Department for registration under Article 16 and the application has not yet been disposed of by the Department.

**Power of housing trusts to hold land**

5. For the purpose of constructing, improving or repairing, or facilitating or encouraging the construction, improvement or repair of, housing accommodation, a housing trust—

- (a) may acquire and dispose of any estate in land; and
- (b) if it is not already a body corporate shall, for the purpose of holding any estate in land acquired under this Article, and of suing and being sued in respect thereof, be deemed to be a body corporate with perpetual succession, and consequently for the purpose of acquiring, holding or disposing of such an estate shall have a common seal.

### **Borrowing by housing associations**

6.—(1) The Department may, on such terms and subject to such conditions as it thinks fit, make loans to—

- (a) registered housing associations, and
- (b) unregistered self-build societies,

for the purpose of enabling those bodies to meet the whole or any part of any expenditure incurred, or to be incurred, by them in carrying out their objects.

(2) Where the Department makes a loan to a registered housing association under paragraph (1), so long as any part of the principal of, or any interest on, the loan remains outstanding, the loan shall be a charge on all the revenues of that association and, subject to any statutory provision to the contrary, the charge shall rank equally with other charges on those revenues.

(3) The Department may guarantee, in such manner and on such conditions as it may think fit, the repayment of the principal of, and the payment of interest on, any sums which a registered housing association or an unregistered self-build society borrows from any person.

(4) Any sum required by the Department for fulfilling a guarantee under paragraph (3) shall be charged on and issued out of the Consolidated Fund, and for the purpose of providing such issues the Department of Finance and Personnel may borrow money.

### **Recovery of possession of premises let by a housing association**

7.—(1) Subject to paragraph (2), on the termination of the tenancy of any premises let by a housing association, possession of the premises may (without prejudice to any other method of recovery) be recovered by the housing association in a summary manner under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981(1) relating to ejectment proceedings, whatever may be the rent or term of the tenancy.

(2) Paragraph (1) does not apply to any tenancy which is a secure tenancy within the meaning of Article 25 of the Order of 1983.

### **Rents**

8.—(1) Subject to the following provisions of this Article, a registered housing association may fix the amount of rent to be charged for any housing accommodation which it provides—

- (a) under a tenancy granted by it on or after the day of the coming into operation of this Part; or
- (b) under a tenancy—
  - (i) granted by it before that day, and
  - (ii) in respect of which the Department has not made a determination under paragraph (2).

(2) The Department, if it considers it appropriate to do so, may make a determination with respect to the rent to be charged under a tenancy granted by a registered housing association before the day of the coming into operation of this Part.

(3) Paragraph (1) shall not apply to a tenancy, by way of an equity-sharing lease, whenever granted, but the Department shall make a determination with respect to the rent to be charged under such a tenancy.

(4) For the purposes of paragraphs (2) and (3) the Department—

- (a) may make a determination with respect to a particular tenancy or a general determination with respect to a class of tenancy or to tenancies generally; and

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- (b) may make exceptions to a general determination.
- (5) A general determination—
  - (a) shall be made with the consent of the Department of Finance and Personnel; and
  - (b) may fix a rent in such manner as the Department considers appropriate including, in particular, by reference to a scheme made under Article 17 of the Order of 1981 (scheme to determine rent to be charged by the Executive).
- (6) Paragraph (2) does not apply to any housing accommodation provided under a co-ownership tenancy, that is to say a tenancy—
  - (a) granted by a registered housing association whose rules restrict membership to persons who are tenants or prospective tenants, and preclude the granting or assignment of tenancies to persons other than members; and
  - (b) under which the tenant (or his personal representatives) either by virtue of the tenancy agreement or the agreement under which he became a member of the association may be entitled on ceasing to be a member of the association to a sum calculated by reference, directly or indirectly, to the value of the house of which he is a tenant.
- (7) The power conferred on a registered housing association under paragraph (1) may be exercised to increase the rent payable under a tenancy, but such power—
  - (a) shall not be exercisable until the expiration of the period of 12 months from the day of the coming into operation of the tenancy, and
  - (b) may be exercised in relation to any particular tenancy on one occasion only during any period of 12 months.
- (8) Article 26 of the Order of 1981 (increase of Executive rents) shall apply to registered housing associations and their tenants in the same manner as it applies to the Executive and its tenants.

#### **Tenancy agreements, etc.**

9. Articles 25 and 26A of the Order of 1981 (which relate to the substitution or variation of tenancies of houses let by the Executive and to the length of notice to quit required in respect of such tenancies) shall apply to registered housing associations and their tenants in the same manner as they apply to the Executive and its tenants.

#### **Persons eligible for housing accommodation**

10. Except with the consent of the Department, a housing association shall not—
- (a) if it is a registered housing association, accept as a tenant of any housing accommodation provided by it; or
  - (b) if it is not a registered housing association—
    - (i) accept as a tenant of housing accommodation provided by it under section 1 of the Housing Act (Northern Ireland) 1945(2) as applied by section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946(3), or
    - (ii) accept as an occupier of accommodation in a hostel provided by it in respect of which any contribution has been made to it under section 15 of the Housing Act (Northern Ireland) 1963(4),

any person whom the Executive would be precluded by a scheme made under Article 22 of the Order of 1981 from accepting as a tenant of housing accommodation provided by it.

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(2) 1945 c. 2 (N.I.)  
(3) 1946 c. 4 (N.I.)  
(4) 1963 c. 26 (N.I.)

### **Guidance as to management of accommodation by registered housing associations**

**11.**—(1) In accordance with the provisions of this Article, the Department may issue guidance with respect to the management of housing accommodation by registered housing associations and, in considering under this Part whether action needs to be taken to secure the proper management of an association's affairs or whether there has been mismanagement, the Department may have regard (among other matters) to the extent to which any such guidance is being or has been followed.

(2) Guidance issued under this Article may make different provision in relation to different cases and, in particular, in relation to different areas, different descriptions of housing accommodation and different descriptions of registered housing associations.

(3) Without prejudice to the generality of paragraphs (1) and (2), guidance issued under this Article may relate to—

- (a) the housing demands for which provision should be made and the means of meeting those demands;
- (b) the allocation of housing accommodation between individuals;
- (c) the terms of tenancies and the principles upon which the levels of rent should be determined;
- (d) standards of maintenance and repair and the means of achieving these standards; and
- (e) consultation and communication with tenants.

(4) Guidance issued under this Article may be revised or withdrawn but, before issuing or revising any guidance under this Article, the Department shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate.

(5) The Department shall issue the guidance or, as the case may be, the revision concerned in such manner as the Department considers appropriate for bringing it to the notice of the housing associations concerned.

### **Acquisition of land**

**12.**—(1) The Department may, for the purpose of selling or leasing land to a registered housing association or to an unregistered self-build society—

- (a) acquire any land by agreement or compulsorily;
- (b) dispose of any land so acquired.

(2) Where the Department in exercise of the power conferred on it by paragraph (1) desires to acquire any land compulsorily, the Department may make an order (in this Article referred to as a “vesting order”) vesting the land in the Department.

(3) Section 97(3) of, and Schedule 6 to, the Local Government Act (Northern Ireland) 1972<sup>(5)</sup> shall, subject to the modifications specified in Schedule 1, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as they apply to the acquisition of land by means of a vesting order made under that Act.

(4) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933<sup>(6)</sup> shall not affect the disposal of any land acquired or taken on lease under this Article.

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(5) 1972 c. 9 (N.I.)

(6) 1933 c. 6 (N.I.)

### **Disposal of land, etc.**

13.—(1) Subject to paragraph (2), any provision contained in the rules of a registered housing association which prevents it from disposing of any land (where such disposal would otherwise be lawful) shall be of no effect.

(2) Notwithstanding anything contained in section 30 of the Act of 1969—

- (a) a registered housing association may not dispose of or mortgage any land, and
- (b) an unregistered housing association may not dispose of any grant-aided land as defined in Schedule 2,

without the consent of the Department.

(3) Any such consent may be given—

- (a) subject to such conditions as the Department sees fit to impose; and
- (b) either generally in relation to all housing associations or to a particular housing association or description of association; or
- (c) in relation to particular land or in relation to a particular description of land.

(4) Paragraph (2)(b) shall not prevent an unregistered housing association from disposing of any land by the granting of a lease for a term ending within the period of 7 years and 3 months beginning on the date of the grant unless—

- (a) there is conferred on the lessee (whether by the lease or otherwise) an option for renewal for a term which, together with the original term, would expire outside that period; or
- (b) the lease is granted wholly or partly in consideration of a fine.

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

(6) This Article does not apply to a letting of land to one or more individuals by a registered housing association under a secure tenancy or under what would be a secure tenancy but for paragraphs 1(b) to 9 of Schedule 2 to the Order of 1983.

(7) There shall be included among the matters which are required to be registered in the Statutory Charges Register the statutory condition attaching by virtue of this Article to land acquired by a registered housing association.

(8) An application for registration of the statutory condition attaching to land by virtue of this Article shall be made by the Department as soon as is reasonably practicable after the acquisition of the land.

(9) For the purposes of paragraph (8), a registered housing association shall upon acquiring any land forthwith—

- (a) inform the Department of the acquisition, and
- (b) provide such information with respect to the acquisition as the Department may require.

(10) Any person who suffers loss by reason of the failure of the Department to comply with paragraph (8) may bring proceedings in any court of competent jurisdiction against the Department and recover from it the amount of that loss.