
STATUTORY INSTRUMENTS

1978 No. 457 (N.I. 2)

NORTHERN IRELAND

**The Housing
(Northern Ireland) Order 1978**

Laid before Parliament in draft

Made 21st March 1978

Coming into Operation 1st April 1978

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At the Court at Buckingham Palace, the 21st day of March 1978

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I
INTRODUCTORY

Title and commencement

1. This Order may be cited as the Housing (Northern Ireland) Order 1978 and shall come into operation on 1st April 1978.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) 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—

“building society” means a building society within the meaning of the Building Societies Act 1962 (c) or the Building Societies Act (Northern Ireland) 1967 (d);

“the Department” means the Department of the Environment;

“friendly society” means a registered society or branch within the meaning of the Friendly Societies Act (Northern Ireland) 1970 (e) or a registered Great Britain society, within the meaning of section 104 (5) of that Act, the rules of which are recorded in Northern Ireland;

“housing association” has the same meaning as for the purposes of section 341 of the Income and Corporation Taxes Act 1970 (f);

“insurance company” means an insurance company to which Part III of the Insurance Companies (Northern Ireland) Order 1976 (g) applies and, except in Article 14, includes a company which is not such an insurance company but whose business consists only of business which is complementary to insurance business of the classes carried on by one or more such insurance companies and every member of which is—

(a) such an insurance company to whose business its business is so complementary; or

(b) a company which is not such an insurance company but which, for the purposes of paragraph 24 of Schedule 6 to the Companies Act (Northern Ireland) 1960 (h), is a wholly owned subsidiary of a company such as is mentioned in sub-paragraph (a) of this definition; or

(c) a nominee of a company such as is mentioned in sub-paragraph (a) or (b) of this definition;

(a) 1974 c. 28. (b) 1954 c. 33 (N.I.). (c) 1962 c. 37. (d) 1967 c. 31 (N.I.).
(e) 1970 c. 31 (N.I.). (f) 1970 c. 10 (g) S.I. 1976/59 (N.I. 3). (h) 1960 c. 22 (N.I.).

- “option notice” means a notice under Article 3 (2);
- “prescribe” means prescribe by regulations made, subject to negative resolution, by the Department; and
- “statutory provision” has the same meaning as in section 1 (f) of the Interpretation Act (Northern Ireland) 1954.

PART II
OPTION MORTGAGES

Right to opt for subsidy for certain loans in connection with dwellings

3.—(1) This Article shall have effect where a person borrows, or two or more persons borrow jointly, from a qualifying lender on the security of a freehold or leasehold estate of the borrower or of one or more of the borrowers (including an estate held jointly or in common by the borrower or one or more of the borrowers and one or more other persons) in land in Northern Ireland and—

- (a) application for the loan is made on or after 1st April 1978; and
- (b) the loan is for or in connection with, or is made with a view to the repayment by means thereof of the amount outstanding on a previous loan for or in connection with, one or more of the following purposes, that is to say—
 - (i) acquiring, or acquiring a site for, or constructing, or
 - (ii) providing by the conversion of a building on that land, or
 - (iii) altering, enlarging, repairing or otherwise improving, a dwelling on that land; and
- (c) the contract requiring repayment of the loan (in this Order referred to as the “repayment contract”) includes provision for the making by the borrower to the lender of periodical payments consisting wholly or partly of payments of interest; and
- (d) the loan is not one to which a direction under Article 4 (1) for the time being applies.

(2) The borrower or borrowers may by notice in writing to the lender in such form as the Department may direct (in this Order referred to as an “option notice”) elect that the loan shall be subsidised in accordance with this Order and as respects the period, if any, for which in accordance with paragraphs (3) and (4) the option notice has effect—

- (a) the lender shall—
 - (i) treat the borrower, in pursuance of a scheme made by the Department for the purpose in accordance with Article 13 (1), as having paid at such times and by such instalments as may be determined under the scheme sums not in fact paid by him of an aggregate amount determined in accordance with Article 11 towards the amounts due from him under the repayment contract; and
 - (ii) be entitled to receive from the Department, subject to any directions of the Department under Article 13 (2), payments equal in the aggregate to the aggregate amount aforesaid;
- (b) notwithstanding anything in the Income Tax Acts, the borrower—
 - (i) shall not, in computing his total income, be entitled to a deduction in respect of any amount payable by way of interest under the repayment contract;
 - (ii) shall not be entitled to relief from income tax in respect of any such interest;

- (iii) shall be neither permitted nor required to make any deduction of income tax from any such payment of interest;
- (c) for the purposes of income tax and corporation tax, any payment received by the lender under sub-paragraph (a) (ii) shall be treated as an annual amount chargeable to tax under Case III of Schedule D.
- (3) Subject to Article 4 (6) and (7), an option notice in respect of a loan shall be of no effect unless the following conditions are satisfied, that is to say—
- (a) that notice in writing of intention to give the option notice was given to the lender at the time when application for the loan was made or by such later time as the lender may in that particular case allow; and
- (b) that the option notice was signed not later than the date when a repayment contract in respect of the loan was first entered into; and
- (c) that the borrower (and, in the case of joint borrowers, each of them) has signed and delivered to the lender a declaration that the person signing the declaration is ordinarily resident in the United Kingdom, that the amount of the loan will not exceed the appropriate limit determined under Article 5 and that, before the expiry of the period of 12 months beginning on the date referred to in sub-paragraph (b), the land in question will be used wholly or partly for the purposes of a dwelling to be occupied wholly or partly as his or her residence by a specified person or persons in such circumstances that the residence condition in Article 6 is fulfilled, so, however, that such a declaration shall not constitute notice to the lender of any estate in that land which may be subsequently acquired by any person other than the borrower; and
- (d) in a case where the specified person or persons named in a declaration under sub-paragraph (c) is, are or include the borrower or all or any of the joint borrowers, that, if the borrower or, in the case of joint borrowers, any of them is married and is not treated for income tax purposes as living apart from his spouse, the borrower or, as the case may be, each of those joint borrowers and (in either case) his spouse have signed and delivered to the lender a declaration either that there is no existing loan—
- (i) the whole or any part of the interest on which is payable (whether alone or jointly with any other person) by the spouse, and
- (ii) in respect of which an option notice for the time being has effect or in respect of which a claim for relief has been or is to be made under section 75 of the Finance Act 1972 (a) (relief for payment of interest), and
- (iii) which relates to, or was made with a view to the repayment of a previous loan which related to, land used wholly or mainly for the purposes of a dwelling (not being the dwelling to which the declaration under sub-paragraph (c) relates) which is that spouse's only or main residence or a caravan so used,
- or that such a loan does exist but the spouse intends that, within the period of one year beginning on the date referred to in sub-paragraph (b), the dwelling referred to in head (iii) will cease to be the spouse's only or main residence.

(4) Subject to paragraph (3) and Article 4 (7), an option notice shall have effect for the period beginning with the date of its signing and ending with whichever of the following events first occurs, namely—

- (a) the satisfaction of the borrower's debt to the lender;

(a) 1972 c. 41.

- (b) the realisation of the security on the estate in land in question, whether or not the borrower's debt is fully satisfied thereby;
- (c) the said estate's ceasing to be security for the loan;
- (d) the vesting of the rights and obligations under the repayment contract of the borrower (or, in the case of joint borrowers, of both or all of them) in some other person who has become beneficially entitled to the estate in land in question;
- (e) the vesting of the lender's rights under the repayment contract in some other person, so, however, that, if at the expiration of the period of three months beginning with the date of that vesting that other person is a qualifying lender, the option notice shall not cease to have effect by virtue of this paragraph and, that notice and the provisions of this Order shall be treated as having continued to have effect during that period as if that other person were a qualifying lender notwithstanding that at any time during that period he was not so;
- (f) if the number of the periodical payments referred to in Article 3 (1) (c) is not fixed by or ascertainable under the repayment contract, the expiration of thirty years from the beginning of the period for which the option notice has had effect;
- (g) the taking effect of a notice under Article 9;
- (h) the taking effect of a direction under Article 4 (1) with respect to the loan;
- (i) if Article 6 (5) applies, the expiry of the period of one month beginning with the date on which the lender receives a notification (or, if he receives more than one notification, the first notification) under that Article or, if he does not receive such a notification, the date on which the lender first becomes aware that the residence condition is not fulfilled as mentioned in that Article;
- (j) if Article 6 (6) applies and the lender receives a notification in accordance with that Article, the expiry of the period of twelve months beginning with the date specified in that notification, and if that Article applies but the lender does not receive such a notification, the expiry of the period of one month beginning with the date on which the lender first becomes aware that the residence condition is not fulfilled as mentioned in that Article;
- (k) if the lender becomes aware that a declaration under paragraph (3) (c) or (d) is false in a material particular, the expiry of the period of one month beginning with the date on which the lender first becomes so aware.

(5) The provisions of this Order shall have effect with respect to any loan notwithstanding any provision with respect to the making of loans by the lender in question contained in, or in any instrument made under, any other statutory provision.

Directions by the Department for the purposes of Article 3

4.—(1) The Department may, after consultation with such qualifying lenders or bodies representative of qualifying lenders of any description as may appear to it appropriate, direct that subsidy in accordance with this Order shall not be available in the case of any loan to which the direction applies, being a loan falling within paragraph (2).

(2) A loan is one in respect of which a direction may be made under paragraph (1) if the terms of the repayment contract (as originally entered into or as subsequently varied) are such that the amount due from the borrower for any

period by way of interest under the repayment contract is less than the total of the interest which accrues in respect of that period, so that part of the interest is treated as an addition to the capital outstanding or is otherwise carried forward.

(3) In considering whether to make a direction under paragraph (1) with respect to any loan, the Department shall follow such principles, and take account of such matters, as it may decide after the like consultation as is specified in that paragraph.

(4) A direction under paragraph (1) may be made with respect to a particular loan or loans or any description of loans, and, in so far as the direction relates to a loan in respect of which an option notice has already been given, the direction shall specify a date (being a date after the giving of the direction) with effect from which the direction is to take effect with respect to any such loan.

(5) Any provision of paragraph (1) or (3) which imposes on the Department a duty to consult any persons or bodies appearing to it to be appropriate shall not be taken as implying that further consultation is required by the provision where the Department is satisfied that there was consultation before the coming into force of that paragraph and in its opinion that consultation was sufficient for the purpose.

(6) The Department may direct that, in such cases or class of cases as may be specified in the direction, being cases where the borrower is a trustee for a person who is a minor, an option notice shall, if the qualifying lender in question so agrees, have effect as if, instead of the conditions specified in Article 3 (3) (c) and (d) there are satisfied such other conditions as may be specified in the direction; and where any such direction has effect in relation to an option notice, Article 6 (5) and (6) shall apply as if the reference therein to the residence condition were a reference to such a condition as may be specified.

(7) The Department may direct that, in such circumstances or in such cases or class of cases as may be specified in the direction, an option notice shall, if the qualifying lender in question agrees, have effect notwithstanding that the conditions specified in Article 3 (3) (a) and (b) are not satisfied; but the period for which an option notice has effect by virtue of this paragraph shall not begin—

(a) if the lender is a building society whose financial year ends on a date not earlier than 30th September, until 1st April next after the end of the financial year of the society in which the option notice is signed; or

(b) in any other case, until 1st April falling between three and fifteen months after the date of the signing of the option notice,

except where the lender agrees to its beginning on an earlier 1st April falling after the date of the signing of the option notice.

(8) In the case of an option notice to which a direction under paragraph (7) applies, Article 3 (3) (c) shall have effect as if for the words from “before the expiry” to “to be occupied” there were substituted the words “the land in question is being and will continue to be used wholly or partly for the purposes of a dwelling occupied”.

The appropriate limit for loans

5.—(1) In relation to a loan in respect of which an option notice has been signed (in this Article referred to as “the relevant loan”) the appropriate limit referred to in Article 3 (3) (c) is £25,000 reduced by the amount or, as the case may require, the aggregate amount outstanding by way of capital on the date referred to in Article 3 (3) (b) in respect of every loan—

- (a) the whole or any part of the interest on which is payable (whether alone or jointly with any other person) by the borrower who signed the declaration under the said sub-paragraph (c) or, in the case of joint borrowers, by any of the borrowers who signed that declaration or, where that borrower or any of those joint borrowers is married and is not treated for income tax purposes as living apart from his spouse, that spouse; and
 - (b) which falls to be taken into account by virtue of paragraph (2) and is not to be disregarded by virtue of paragraph (4).
- (2) Subject to paragraphs (3) and (4), a loan falls to be taken into account under paragraph (1) if—
- (a) it is a loan in respect of which an option notice for the time being has effect; or
 - (b) it is a loan to which Part I of Schedule 9 to the Finance Act 1972 (loans for purchase or improvement of land on which interest is eligible for relief in full) for the time being applies (either in respect of the whole loan or subject to any limit of amount), and the land or caravan referred to in that Part is not used in such circumstances that it falls within paragraph 4 (1) (b) of Schedule 1 to the Finance Act 1974 (a) (commercial lettings).

(3) Without prejudice to section 11 (1) of the Interpretation Act (Northern Ireland) 1954 the reference in paragraph (2) (b) to Schedule 9 to the Finance Act 1972 is a reference to that Schedule either as amended by Schedule 1 to the Finance Act 1974 (restrictions on relief for interest) or (if interest on the loan is excepted from section 19 (3) of that Act) as originally enacted; and in the case of a loan to which the said Schedule 9 applies as originally enacted, the reference in paragraph (2) (b) to the use of land or a caravan in circumstances falling within paragraph 4 (1) (b) of the said Schedule 1 shall be construed as a reference to use which would fall within that paragraph if that Schedule applied in relation to interest on the loan in question.

(4) Notwithstanding anything in paragraph (2), a loan (in this paragraph referred to as a “previous loan”) which falls within sub-paragraph (a) or (b) of that paragraph shall be disregarded in determining the appropriate limit in relation to the relevant loan if—

- (a) the relevant loan is made with a view to the repayment by means of the relevant loan of the amount outstanding on the previous loan; or
- (b) the previous loan is an existing loan which is specified in a declaration made for the purpose of satisfying, in relation to the relevant loan, the condition in Article 3 (3) (d); or
- (c) the previous loan was in connection with the only or main residence of a person who is, or is a qualifying relative of, the borrower or any of the joint borrowers under the relevant loan and the relevant loan is made for or in connection with any one or more of the purposes specified in Article 3 (1) (b) in such circumstances that the dwelling referred to in that section is to be used instead as that person’s only or main residence.

(5) In any case where the option notice in respect of the relevant loan is one to which a direction under Article 4 (6) applies, the preceding provisions of this Article shall have effect subject to such modifications as may be prescribed.

(a) 1974 c. 30.

The residence condition

6.—(1) For the purposes of this Order, the residence condition is fulfilled with respect to a dwelling to which a declaration under Article 3 (3) (c) relates if and so long as—

- (a) the dwelling is occupied wholly or partly as his only or main residence by the borrower himself or, in the case of joint borrowers, by each of them; or
- (b) at any time when the borrower or any joint borrower does not occupy the dwelling as mentioned in sub-paragraph (a) the dwelling is so occupied by a qualifying relative of his.

(2) For the purposes of this Order a person is a qualifying relative of a borrower (or a joint borrower) if he or she is—

- (a) the borrower's spouse and is living apart from the borrower;
- (b) the borrower's former spouse;
- (c) the mother of either the borrower or his spouse and is widowed or living apart from her husband or, in consequence of dissolution or annulment of marriage, is a single woman; or
- (d) such a relative of the borrower or his spouse as is specified in paragraph (3) and is either over the age of 65 or incapacitated by infirmity from maintaining himself, in whole or in part.

(3) The relatives referred to in paragraph (2) (d) are—

- (a) a parent or grandparent;
- (b) a brother or sister who is over the age of 16; and
- (c) a child or grandchild (in either case whether legitimate, adopted or illegitimate) who is over the age of 16.

(4) A person shall be treated for the purposes of this Article as living apart from his or her spouse if he or she would be so treated for income tax purposes.

(5) If, after the delivery of a declaration under Article 3 (3) (c) (other than a declaration delivered in respect of an option notice to which a direction under Article 4 (6) applies), the residence condition is not, within the period of one year specified in that paragraph, fulfilled with respect to the dwelling concerned, then, within the period of one month beginning on the day following the expiry of that period of one year, the borrower or, in the case of joint borrowers, each of them shall notify the lender in writing to that effect.

(6) If, at any time after—

- (a) the delivery of a declaration under Article 3 (3) (c), and
- (b) the residence condition has been fulfilled with respect to the dwelling concerned,

the residence condition ceases to be so fulfilled, then, within the period of one month beginning on the date on which that condition first ceased to be so fulfilled, the borrower or, in the case of joint borrowers, each of them shall notify the lender in writing of the date on which the condition ceased, and of the fact that it has ceased, to be so fulfilled.

(7) Any person who knowingly fails to notify the lender as required by paragraph (5) or (6) shall be liable—

- (a) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment;

- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Right for persons borrowing or applying for loans before 1st April 1978 to opt for subsidy

7.—(1) This Article shall have effect where a person has borrowed, or two or more persons have borrowed jointly, as mentioned in Article 3 (1) except that the application for the loan has been made before 1st April 1978 or both—

- (a) the application has been so made, and
- (b) the principal sum outstanding in respect of the loan is treated between the borrower and lender as including the amount of a further advance or re-advance made before 1st April 1978 on the same security as the loan but not itself satisfying the requirements of Article 3 (1) (b).

(2) If—

- (a) the repayment contract in respect of the loan has been entered into before 1st April 1978; or
 - (b) the application for the loan has been made before 1st April 1978 but the repayment contract has been entered into on or after that date;
- then Article 3 (2) to (5) and Article 4 (6) to (8) shall apply in relation to the loan as if in paragraph (3) of Article 3—
- (i) in sub-paragraph (a) for the words from “at the time” to the end there were substituted “on or before 1st October 1978”; and
 - (ii) in sub-paragraph (b) for the words from “the date when” to the end there shall be substituted “three months from the date when notice of intention to give the option notice was given”.

Extension of right to opt for subsidy to certain other cases

8.—(1) Where, after a person has borrowed, or two or more persons have borrowed jointly, as mentioned in Article 3 (1) or 7 (1), the rights and obligations under the repayment contract of the borrower (or, in the case of joint borrowers, of both or all of them) become or have become vested in some other person or persons who has or have become beneficially entitled to the estate in the land in question, then, whether or not an option notice has had effect in respect of the loan, Article 3 (2) to (5) and Article 4 shall apply in relation to the loan as if—

- (a) for any reference in those provisions to the borrower or borrowers there were substituted a reference to that other person or those other persons; and
- (b) in paragraph (3) of Article 3—
 - (i) sub-paragraph (a) were omitted;
 - (ii) for the reference in sub-paragraph (b) to the date there mentioned there were substituted a reference to the date of the vesting; and
- (c) in paragraph (4) of that Article the date specified as the beginning of the period for which the option notice has effect were the date of the vesting.

(2) Where, after a person has borrowed, or two or more persons have borrowed jointly, as mentioned in Article 3 (1) or 7 (1), the rights and obligations under the repayment contract of the borrower (or, in the case of joint borrowers, of both or all of them) become or have become vested in some other person or persons not beneficially entitled to the estate in the land in question and no option notice has had effect in respect of the loan—

(a) the Department may exercise its powers to give a direction under Article 4 (7), and

(b) thereupon Article 3 (2) to (5) and Article 4 shall, subject to such modifications as may be prescribed, apply in relation to the loan,

as if for any reference in those provisions to the borrower or borrowers there were substituted a reference to that other person or those other persons and, except for the purposes of Article 4 (6), as if the reference in Article 4 (7) to the conditions specified in paragraph (3) (a) and (b) of Article 3 included a reference to the condition specified in paragraph (3) (c) of that Article.

(3) In relation to a case where a housing association for the time being approved for the purposes of section 341 of the Income and Corporation Taxes Act 1970 borrows or has borrowed from a qualifying lender on the security of a freehold or leasehold estate of that association in land in Northern Ireland, the Department may prescribe that this Order shall have effect with such adaptations and modifications of the provisions (other than Article 3 (2) (b) and (c)) thereof appearing to the Department to be appropriate or expedient, and subject to such special conditions appearing to the Department to be necessary or expedient as may be prescribed; and

(a) in relation to such a housing association, Article 3 (2) (b) shall have effect as if—

(i) the reference therein to the Income Tax Acts included a reference to the Corporation Tax Acts; and

(ii) in head (ii) thereof, for the reference to income tax there were substituted a reference to corporation tax; and

(b) without prejudice to Article 3 (2) (b), as respects any period for which an option notice given by such a housing association has effect in respect of any loan, section 341 (1) (b) of the Income and Corporation Taxes Act 1970 shall not apply to any interest payable under the repayment contract in respect of the loan;

but if at any time while an option notice given by such a housing association has effect, the requirements of section 341 (10) of the said Act of 1970 are not satisfied as respects that association, the Department may by notice in writing to the association declare that option notice to be of no effect as from the date of the giving of the Department's notice.

Right to terminate period for which option notice has effect

9.—(1) Where an option notice has been given in respect of a loan the person or persons in whom the rights and obligations under the repayment contract are for the time being vested may by notice to the lender bring the period for which the option notice has effect to an end on 31st March of any year not earlier than 1982, but only if not less than four years have then elapsed since the date of the repayment contract.

(2) A notice under this Article must be in writing and in such form as the Department may direct and must be given not less than three months before the date on which it is to take effect.

Qualifying lenders

10.—(1) Qualifying lenders for the purposes of this Order shall be any of the following bodies lending in pursuance of powers apart from this Order—

- (a) building societies designated under section 1 of the House Purchase and Housing Act 1959 (a);
 - (b) the Departments of Agriculture and Finance;
 - (c) district councils;
 - (d) the Northern Ireland Housing Executive;
 - (e) trustee savings banks; and
 - (f) such bodies of such of the following descriptions as the Department may by order specify for the purposes of the provision in question, namely—
 - (i) building societies not designated as aforesaid;
 - (ii) insurance companies;
 - (iii) friendly societies.
- (2) No order shall be made under paragraph (1) (f)—
- (a) with respect to a building society or friendly society except after consultation with the Registrar of Friendly Societies for Northern Ireland;
 - (b) with respect to an insurance company except after consultation with the Department of Commerce;
 - (c) removing any such society or company as aforesaid from the list of qualifying lenders except—
 - (i) on the application of the society or company, or
 - (ii) where the society or company has ceased to exist, or
 - (iii) where the removal is in the opinion of the Department expedient in the public interest,

and the removal of any body from the list of qualifying lenders shall not affect any right or obligation of any person under this Order in connection with any loan if an option notice in respect thereof had effect immediately before the date on which the removal takes effect.

Aggregate amount of subsidy under Order

11.—(1) In the case of any loan subsidised under this Order, the aggregate amount at any time of the sums referred to in Article 3 (2) (a) (i) shall be the difference, if any, between—

- (a) the aggregate sum which, taking account of paragraph (2) but otherwise apart from the provisions of this Order, would have become due from the borrower up to that time during the period for which the option notice in respect of the loan has had effect by way of interest on the amount from time to time outstanding by way of capital in connection with the loan if that interest had been calculated in the manner and at the rate per annum which would have been applicable under the repayment contract; and
- (b) what that aggregate sum would have been if that interest had been calculated at such rate per annum as the Department may by order specify.

(2) In any case where under the terms of a repayment contract (as originally entered into or as subsequently varied) the amount due from the borrower for any period by way of interest under the repayment contract is less than the total of the interest which accrues in respect of that period so that part of the interest is treated as an addition to the capital outstanding or is otherwise

carried forward then, for the purpose of determining the aggregate amount of the subsidy in respect of the loan, there shall be treated as becoming due from the borrower in any period the whole of the interest which accrues in that period.

(3) An order made under paragraph (1) shall be subject to affirmative resolution.

Recovery of subsidy in certain cases

12.—(1) If a declaration under Article 3 (3) (c) or (d) is false in a material particular, the Department may recover from the borrower or, as the case may be, jointly and severally from the borrowers an amount equal to the total of the payments received by the lender by virtue of Article 3 (2) (a) (ii) in relation to the loan in respect of which the declaration was made.

(2) If, in a case where Article 6 (5) applies, the lender does not receive a notification under that Article, the Department may recover from the borrower or, as the case may be, jointly and severally from the borrowers, an amount equal to the total of the payments received by the lender as mentioned in paragraph (1) after the expiry of the period of 2 months beginning on the day following the expiry of the period of 12 months specified in Article 6 (5).

(3) If, in a case where Article 6 (6) applies, the lender does not receive a notification under that Article, the Department may recover from the borrower or, as the case may be, jointly and severally from the borrowers, an amount equal to the total of the payments received by the lender as mentioned in paragraph (1) after the expiry of the period of 2 months beginning with the date on which the condition specified in Article 6 (6) first ceased to be fulfilled.

Schemes, directions, etc.

13.—(1) Before making any scheme for the purposes of Article 3 (2) (a) (i), or before varying or revoking any scheme made for the purposes of that Article, the Department shall consult with such qualifying lenders or bodies representative of qualifying lenders of any description as may appear to it appropriate and any such scheme may include provision for any dispute between a borrower and a lender as to the effect of any such scheme with respect to the loan in question to be referred to and determined by the Department.

(2) Where an option notice has effect in respect of any loan, the lender shall supply the borrower, not later than the date when the option notice first has effect or such later date as the Department may direct, with a statement in writing in such form as the Department may direct of the effect of the appropriate scheme.

(3) No direction shall be given for the purposes of Article 3 (2) (a) (ii) except after such consultation as aforesaid and with the approval of the Department of Finance; and such directions—

- (a) shall make provision as to the method and time of payments under Article 3 (2) (a) (ii); and
- (b) may impose such conditions as to claims, records, certificates, audit, the provision of information by qualifying lenders to the Department or the Commissioners of Inland Revenue or other matters as may appear to the Department to be necessary or expedient.

(4) In addition to its powers to give directions as to the form of an option notice or of the statement referred to in paragraph (1), the Department may give directions as to the form of any other document for use in connection with this Order.

Guarantee of advances in excess of normal amount

14.—(1) The Department may, with the approval of the Department of Finance, enter into arrangements with any insurance company whereby, in the case of any loan to which the arrangements relate, being a loan by a qualifying lender to a person other than a housing association made on or after such date as the Department may by order appoint in the case of which—

- (a) an option notice has been given and has come into effect; and
- (b) the lender has agreed to advance a sum exceeding what would otherwise have been advanced subject to a third party approved by the lender guaranteeing to indemnify the lender against loss by reason of that agreement or, where the lender is an insurance company, subject to the borrower making to the company a single special payment of a specified amount; and
- (c) the insurance company, at the request of the borrower, and with the approval of the lender, proposes to give that guarantee, or, as the case may be, the borrower proposes to make that special payment,

the Department agrees with the insurance company to reimburse to the company one half of any sum paid by the company in pursuance of the guarantee, or, as the case may be, of any loss suffered by the company as lender by reason of their said agreement with the borrower, and the company agrees with the Department to reduce by such amount as the Department and the company may agree to be appropriate the sum which would otherwise be required to be paid by or on behalf of the borrower to the company in respect of the grant of the guarantee, or, as the case may be, by way of the single special payment aforesaid.

(2) In section 33 (1) of the Building Societies Act (Northern Ireland) 1967 (advances for the payment of certain premiums), the reference to an appropriate policy of life assurance shall be construed as including a reference to a guarantee by an insurance company given in pursuance of arrangements under this Article; and section 26 (3) of that Act (restriction on the amount of an advance in the case of certain guarantees given in pursuance of a continuing arrangement), shall not apply to a guarantee given in pursuance of arrangements under this Article.

PART III
MISCELLANEOUS

Termination of housing grants under certain enactments

15.—(1) The following enactments, namely—

- (a) section 1 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946 (a);
- (b) sections 6 and 15 of the Housing (No. 2) Act (Northern Ireland) 1946 (b); and
- (c) sections 1, 4 and 11 of the Housing on Farms Act (Northern Ireland) 1972 (c);

shall cease to have effect except in relation to applications submitted under those enactments on or before 31st March 1978.

(2) A district council or, as the case may be, the Department shall not pay a grant under any of the enactments mentioned in paragraph (1) in relation to any new house completed after 31st March 1981.

(a) 1946 c. 4 (N.I.). (b) 1946 c. 20 (N.I.). (c) 1972 c. 3 (N.I.).

(3) In this Article—

“applications” include housing schemes and plans and specifications submitted for the approval of a district council;

“completed”, in relation to a new house provided in pursuance of a scheme under section 1 (1) of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946, means “let”; and

“grant” includes “contribution”.

Provision of housing accommodation by registered housing associations

16.—(1) In Article 13 of the Housing (Northern Ireland) Order 1976 (a) (conditions for registration of housing associations)—

(a) in paragraph (2), for sub-paragraphs (a) to (c) there shall be substituted the words “housing or residential accommodation for the benefit of persons in need thereof”; and

(b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) In paragraph (2) “housing or residential accommodation” means—

(a) dwellings which are or are to be let or available for letting, or which have been or are to be otherwise disposed of in such manner as the Department may approve; or

(b) a building or part of a building used or for use as a hostel or part of a hostel,

and for this purpose the grant of a licence to occupy shall be treated as a letting.”.

(2) In Article 27 (2) of the said Order of 1976 (housing projects) for the words from “means dwellings which” to the end there shall be substituted the words “has the same meaning as in Article 13 (2A)”.

Borrowing by the Northern Ireland Housing Executive

17. The following paragraph shall be inserted after Article 4 (1) of the Housing Finance (Northern Ireland) Order 1977 (b)—

“(1A) Without prejudice to section 19 (1) (a) (ii) of the Interpretation Act (Northern Ireland) 1954, a person lending money to the Executive shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money was properly applied.”.

Equity-sharing leases

18. In section 1 (4) of the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 (c) (leases to which general right to acquire fee simple, etc. does not apply), after paragraph (g), the following paragraph shall be inserted—

“(h) a lease of land granted by the Northern Ireland Housing Executive or a housing association registered under the Housing (Northern Ireland) Order 1976 and declared for the purposes of this section to be an equity-sharing lease, the general effect of which is—

(i) to provide that, in consideration for the granting of the lease, the lessee shall pay a capital sum, representing a part payment in respect of the purchase price of the premises demised, and a rent; and

(a) S.I. 1976/1780 (N.I. 25). (b) S.I. 1977/597 (N.I. 8). (c) 1971 c. 7 (N.I.).

- (ii) to provide that the lessee may make additional part payments towards the said purchase price and to grant him an option to purchase the whole or part of the lessor's reversion in the premises demised.”.

N. E. Leigh,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order empowers the Department of the Environment to make a scheme providing financial assistance to owner-occupiers in respect of mortgage payments on houses in Northern Ireland. Persons borrowing money from a qualifying lender may opt to receive a subsidy from the Department by credit towards their mortgage payments. Borrowers opting for the subsidy are to relinquish any right to tax relief on the interest they pay on the loan. (*Article 3*). The subsidy will be available only where the house is for occupation by the borrower or a qualifying relative of the borrower. (*Article 6*). After 31st March 1982 a borrower may terminate an option notice providing four years have elapsed from the date of the repayment contract. (*Article 9*). Bodies which may be qualifying lenders are set out in *Article 10* and the Department is obliged to consult them before making any scheme.

Housing grants schemes under certain enactments are terminated by *Article 15*. *Article 16* extends Parts III and IV of the Housing (Northern Ireland) Order 1976 to allow registered housing associations to dispose of property on any basis approved by the Department and *Article 17* enables persons lending money to the Northern Ireland Housing Executive to do so without enquiring into the purposes for which that money is to be used.

STATUTORY INSTRUMENTS

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