
STATUTORY INSTRUMENTS

1986 No. 1301

The Housing (Northern Ireland) Order 1986

PART II

Housing Defects

Eligibility

Eligibility for assistance

5.—(1) Subject to the following provisions of this Part, a person to whom this Article applies is eligible for assistance in respect of a defective dwelling for the purposes of this Part if—

- (a) he holds a relevant interest in the dwelling, and
- (b) one of the sets of conditions described in paragraphs (2) and (3) is satisfied;

and for the purposes of sub-paragraph (a) a person shall be treated as holding a relevant interest in a dwelling notwithstanding that he has conveyed or assigned that interest to another person by way of mortgage.

(2) The first set of conditions is that—

- (a) there was a disposal by a relevant body of a relevant interest in the dwelling before the cut-off date; and
- (b) there has been no disposal for value by any person of a relevant interest in the dwelling on or after the cut-off date.

(3) The second set of conditions is that—

- (a) a person to whom this Article applies acquired a relevant interest in the dwelling on a disposal for value occurring within the period of twelve months beginning with the cut-off date;
- (b) on the date of that disposal that person was unaware of the association of the dwelling with the qualifying defect;
- (c) the value by reference to which the price for the disposal was calculated did not take any, or any adequate, account of the qualifying defect; and
- (d) if the cut-off date had fallen immediately after the date of the disposal, the first set of conditions would have been satisfied.

(4) No person is eligible for assistance in respect of a defective dwelling if the Executive is of the opinion that—

- (a) work to the building that consists of or includes the dwelling has been carried out in order to deal with the qualifying defect, and
- (b) on the completion of the work, no further work relating to the dwelling was required to be done to the building in order to deal satisfactorily with the qualifying defect.

(5) In this Part, except in paragraph 2 of Schedule 2, references to a disposal include references to a part disposal; but for the purposes of this Part, a disposal of an interest in a dwelling is a disposal of a relevant interest in the dwelling if, and only if, on the disposal the person to whom it is made acquires a relevant interest in the dwelling.

(6) This Article applies to—

- (a) an individual who is not a trustee,
- (b) trustees, if all the beneficiaries are individuals, and
- (c) personal representatives.

(7) In this Part—

- (a) “relevant interest” means an estate in fee simple (including an estate held under a fee farm grant) or a long tenancy unless, in either case, it is subject to a long tenancy;
- (b) references to an interest in a dwelling are references to an interest in land which is or includes the dwelling;
- (c) in relation to a person holding an interest in a dwelling formed by the conversion of another dwelling, references to a previous disposal of an interest in the dwelling include a reference to a previous disposal on which an interest in land which included that part of the original dwelling in which his interest subsists was acquired; and
- (d) references to a disposal of an interest for value are references to a disposal for money or money's worth, whether or not representing full value for the interest disposed of.

(8) Subject to paragraph (9) a tenancy is a long tenancy for the purposes of paragraph (7) if—

- (a) it is a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by a notice given by or to the tenant or by re-entry, forfeiture or otherwise; or
- (b) it is a tenancy granted in pursuance of Chapter I of Part II of the Order of 1983 or Part III of this Order.

(9) A tenancy is not a long tenancy for those purposes if it is an interest created by way of security and liable to termination by the exercise of a right of redemption or otherwise.

Changes to legislation:

There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1986, Section 5.