
STATUTORY INSTRUMENTS

1992 No. 1725

The Housing (Northern Ireland) Order 1992

PART III

GRANTS

CHAPTER I

GRANTS TOWARDS COST OF IMPROVEMENTS AND REPAIRS, ETC.

Preliminary conditions

The age of the property

41.—(1) The Executive may not entertain an application for a grant, other than a disabled facilities grant, unless it is satisfied that, at the date of the application, the dwelling, common parts or house or other building concerned was provided not less than the relevant period before that date.

(2) In paragraph (1)—

- (a) “provided” means provided by construction or conversion; and
- (b) “the relevant period” means 10 years or such other period as the Department may by order provide.

The interest of the applicant in the property

42.—(1) Subject to paragraphs (4) and (5), the Executive may not entertain an application for a grant, other than a common parts grant, unless it is satisfied that—

- (a) the applicant has, or proposes to acquire, an owner’s interest in every parcel of land on which the relevant works are to be carried out; or
- (b) in the case of an application for a renovation grant (other than an application in respect of works required for the provision of one or more dwellings by the conversion of a house or other building), the applicant is a tenant of the dwelling (alone or jointly with others) but does not have, or propose to acquire, an owner’s interest in the dwelling; or
- (c) in the case of an application for a disabled facilities grant in respect of works to a dwelling, the applicant is a tenant of the dwelling (alone or jointly with others) but does not have, or propose to acquire, an owner’s interest in the dwelling; or
- (d) in the case of an application for a disabled facilities grant in respect of works to the common parts of a building containing one or more flats, the applicant is a tenant of a flat in the building (alone or jointly with others) but does not have, or propose to acquire, such an owner’s interest as is referred to in sub-paragraph (a);

and references in this Chapter to an “owner’s application” or a “tenant’s application” shall be construed accordingly.

(2) In this Chapter “owner’s interest” means an interest which—

- (a) is held by the applicant alone or jointly with others; and
 - (b) is either a freehold interest in possession (whether legal or equitable) or a tenancy granted or extended for a term of years of which not less than 5 years remain unexpired at the date of the application.
- (3) Where the Executive entertains an owner's application made by a person who proposes to acquire the necessary interest, it shall not approve the application until it is satisfied that he has done so.
- (4) In accordance with directions given by the Department, the Executive may treat the condition in paragraph (1)(a) as fulfilled by a person who has, or proposes to acquire, an owner's interest in only part of the land concerned.
- (5) This Article does not apply to—
- (a) an application for a grant by a religious denomination or body, or on behalf of a religious denomination or body by the trustees of the denomination or body; and
 - (b) an application for a grant made by a charity or on behalf of a charity by the trustees of the charity.
- (6) The Executive may not entertain a tenant's application unless—
- (a) the tenant is required by the terms of his tenancy to carry out the relevant works and he signed an agreement in respect of the tenancy before 5th December 1991; or
 - (b) his application is for a disabled facilities grant.

Common parts grants: preliminary conditions

- 43.**—(1) The Executive may not entertain an application for a common parts grant unless it is satisfied—
- (a) that, at the date of the application, at least the required proportion of the flats in the building concerned is occupied by occupying tenants; and
 - (b) that the application is either a landlord's common parts application or a tenants' common parts application.
- (2) In this Chapter—
- (a) an “occupying tenant”, in relation to a flat in a building, is a person—
 - (i) who has (alone or jointly with others) such an interest in the flat as is mentioned in any of sub-paragraphs (b) to (e) of paragraph (4); and
 - (ii) who occupies the flat as his only or main residence;
 - (b) a “landlord's common parts application”, in relation to works to the common parts of a building, is an application for a common parts grant made by a person who—
 - (i) has (alone or jointly with others) such an interest in the building as is mentioned in sub-paragraph (a) or sub-paragraph (b) of paragraph (4); and
 - (ii) has a duty or power to carry out the relevant works; and
 - (c) a “tenants' common parts application”, in relation to works to the common parts of a building, is an application for a common parts grant made, subject to paragraph (3), by at least three-quarters of the occupying tenants of the building who, under their tenancies, have a duty to carry out, or to make a contribution in respect of the carrying out of, some or all of the relevant works;

and in any case where a tenancy is held by 2 or more persons jointly, those persons shall be regarded as a single occupying tenant in deciding, for the purposes of sub-paragraph (c), whether the application is made by at least three-quarters of the occupying tenants referred to in that paragraph.

(3) For the purposes of sub-paragraph (c) of paragraph (2), a tenant whose tenancy is of a description specified for the purpose of that paragraph by an order made by the Department shall be treated as an occupying tenant falling within that sub-paragraph; and a person who falls within sub-paragraph (b)(i) of that paragraph and has a duty or power to carry out any of the relevant works may also join in a tenants' common parts application; and, where such a person does join in an application, he is in this Chapter referred to as a “participating landlord”.

(4) The interests referred to in paragraph (2) are as follows—

- (a) a freehold estate in possession (whether legal or equitable);
- (b) a tenancy granted or extended for a term of years of which not less than 5 years remain unexpired at the date of the application;
- (c) a protected tenancy within the meaning of Article 3(1) of the Rent (Northern Ireland) Order 1978(1);
- (d) a statutory tenancy within the meaning of Article 4(5) of that Order; and
- (e) a tenancy which satisfies such conditions as may be specified by order made by the Department.

(5) The required proportion mentioned in paragraph (1) is three-quarters or such other proportion as may be—

- (a) specified for the purposes of this Article by an order made by the Department; or
- (b) approved by the Department, in relation to a particular case or description of case, on application made by the Executive.

Certificate as to future occupation, etc.

44.—(1) Subject to paragraph (9) and Article 64, the Executive may not entertain an application for a renovation grant or a disabled facilities grant unless it is accompanied by a certificate falling within one of paragraphs (2) to (5) in respect to the dwelling, building or flat to which the application relates.

(2) A certificate under this paragraph (an “owner-occupation certificate”) certifies—

- (a) that the applicant has, or proposes to acquire, an owner’s interest in the dwelling or building; and
- (b) that he, or a member of his family, intends to live in the dwelling or, as the case may be, a flat in the building as his (or that member's) only or main residence for a period of not less than 12 months beginning on the certified date.

(3) A certificate under this paragraph (a “tenant’s certificate”) certifies—

- (a) that the applicant is a tenant of the dwelling who falls within paragraph (5) of Article 42 or that his application is a tenant’s application for a disabled facilities grant; and
- (b) that he or a member of his family intends to live in the dwelling or, as the case may be, a flat in the building as his (or that member's) only or main residence.

(4) A certificate under this paragraph (a “certificate of intended letting”) certifies that the applicant has or proposes to acquire an owner’s interest in the dwelling or building and intends to or already has let the dwelling or, as the case may be, one or more flats in the building as a residence—

- (a) to some one other than a member of his family; and
- (b) except where the tenancy relates to a disabled facilities grant, for a period of not less than 5 years beginning on the certified date.

(5) A certificate under this paragraph (a “special certificate”) certifies that the applicant has, or proposes to acquire, an owner’s interest in the dwelling or building and is an applicant of a class prescribed for the purposes of this Article.

(6) The Executive may not entertain a tenant’s application unless—

- (a) it is also accompanied by a certificate of intended letting made by the person who at the time of the application is the landlord under the tenancy; or
- (b) the Executive considers it unreasonable in the circumstances to seek such a certificate.

(7) The Executive may not entertain an application for an HMO grant unless it is accompanied by a certificate that the applicant has or proposes to acquire an owner’s interest in the house in question and intends—

- (a) to license the use of part of it as a residence as mentioned in sub-paragraphs (a) and (b) of paragraph (4), or
- (b) to let part of it as a residence as mentioned in those sub-paragraphs,

or has already so licensed or let part of it.

(8) The Executive may not entertain an application for a common parts grant unless it is accompanied by a certificate signed by the applicant or, as the case may be, by each of the applicants which—

- (a) specifies the interest of the applicant or, as the case may be, each of the applicants in the building or in each flat in the building; and
- (b) certifies that the required proportion, within the meaning of Article 43, of the flats in the building is occupied by occupying tenants.

(9) This Article does not apply to—

- (a) an application for a grant by a religious denomination or body, or on behalf of a religious denomination or body by the trustees of the denomination or body; and
- (b) an application for a grant made by a charity or on behalf of a charity by the trustees of the charity.