

THE HOUSING ASSOCIATION GRANT FOR ELIGIBLE HOUSING ACTIVITIES GENERAL
(NORTHERN IRELAND) DETERMINATION 1992

1. The Department of the Environment for Northern Ireland, in exercise of the powers conferred on it by Articles 33(2) and (5), 35(1), (2), (5) and (8) and 36 of the Housing (Northern Ireland) Order 1992 and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel, and after consultation with such bodies as appear to the Department to be representative of housing associations hereby makes the following General Determination, of the principles in accordance with which the Department shall specify:
 - a. eligibility for grant;
 - b. procedures for applications for grant;
 - c. methods of calculation of grant;
 - d. arrangements for payment of grant;
 - e. arrangements for cancellation, recovery, reduction or suspension of grant;
 - f. transitional arrangements.
2. This General Determination is made without prejudice to the Department's power to make specific determinations under the provisions of the Housing (Northern Ireland) Order 1992.

Citation and Commencement

3. This Determination may be cited as the Housing Association Grant for Eligible Housing Activities General (Northern Ireland) Determination 1992.
4. This Determination has effect from 16 September 1992.

Interpretation

5 In this Determination unless the context otherwise requires:

"the 1981 Order" means the Housing (Northern Ireland) Order 1981;

"the 1983 Order" means the Housing (Northern Ireland) Order 1983;

"the 1992 Order" means the Housing (Northern Ireland) Order 1992;

"the 1981 Order Arrangements" means the determinations and principles for the payment of 1981 Order HAG in force immediately prior to the repeal of Article 137 of the 1981 Order equitably modified as required;

"association" means a housing association as defined in Article 3 of the 1992 Order which is registered by the Department under Article 16 of that Order;

"Department" means the Department of the Environment for Northern Ireland;

"equity-sharing lease" has the meaning given by Article 31(6) (a) of the 1981 Order;

"1981 HAG" means grant paid under Article 137 of the 1981 Order prior to repeal or any provisions replaced by that Article;

"1992 HAG" means grant payable under Article 33 of the 1992 Order;

"hostel" has the meaning given by Article 2(2) of the 1981 Order;

"house" has the meaning given by Article 2(2) of the 1981 Order;

"housing activities" has the meaning given by Article 3 of the 1992 Order;

"letting" includes a sub-lease, sub-tenancy or licence and an agreement for a lease, tenancy, licence, sub-lease or sub-tenancy;

"miscellaneous works" means works to upgrade or install fire precautionary measures recommended by the Fire Authority for Northern Ireland and such other works as the Department may publish from time to time, except in the case of transitional arrangements where it also means structural adaptations for the physically handicapped;

"non-housing costs" means costs which in the opinion of the Department are not incurred in the provision, construction, repair, improvement, letting or disposal of houses or hostels;

"major repairs" means works to association-owned properties which are essential to ensure the continued habitability of the properties and which fall into the following categories -

- i. major works which have become necessary since the original development or rehabilitation work was completed, including those required by subsequent legislative changes;
- ii. replacement of, or major work on, features of properties which have come to the end of their economic life;

"relevant date" means the date on which payment of grant is due, according to timetables published by the Department from time to time;

"shared housing" means a hostel, or other dwelling in which is provided residential accommodation otherwise than in separated and self-contained sets of premises;

"voluntary sales scheme" means a scheme for a housing association to sell its houses to sitting tenants on terms the same as that available to tenants of the Northern Ireland Housing Executive under a scheme approved by the Department under Article 3 of the 1983 Order (as inserted by Article 96 of the 1992 Order).

Eligibility For Grant

6. Grant may be payable to registered housing associations in respect of such housing activities as are listed below and which are referred to hereinafter as eligible housing activities:

- providing, constructing, repairing, improving or managing houses to be kept available for letting, and hostels;

providing land, amenities or services, or providing, constructing, repairing or improving buildings, for the benefit of an association's residents, either exclusively or together with other persons;

acquiring or repairing or improving or creating by the conversion of houses or other property, houses to be disposed of on sale, on lease, or by equity-sharing lease;

constructing houses to be disposed of on a leasehold basis to elderly people.

7. The Department may approve and subsequently pay grant in accordance with the terms of this Determination in respect of housing association schemes which are eligible housing activities having regard to -
 - a. housing needs to be met and their priority within the resources available to the Department; and
 - b. value for money and effectiveness of the investment taking account of the location and type of accommodation to be provided; and
 - c. the economy, efficiency and effectiveness of the housing association concerned.
8. Houses or hostels to be acquired, constructed, converted, improved, rehabilitated, or repaired under a scheme must on completion of the scheme meet standards of construction and suitability for use, and be capable of providing satisfactory accommodation for periods the Department consider to be appropriate having regard to the interest of the association in the land or property.
9. It must be the clear intention of the association that houses provided for letting (or occupation on licence) and hostels will, on completion of the scheme, be available for occupation in accordance with the objects of the association, and be kept within their ownership.

Applications For Grant

10. Applications in respect of individual schemes should be made to the Department in accordance with procedures published from time to time by the Department.

Calculation of Grant

11. In relation to schemes for the provision, construction or improvement of houses or hostels for long term accommodation the Department shall publish from time to time the proportion of costs to be met by grant and indicators of the total costs of provision, construction or improvement (TCIs) which it is intended will facilitate the meeting of housing need on an economical basis.
12. For houses or hostels covered by paragraph 11, the Department will calculate the grant payable by reference to the forecast outturn of qualifying costs at practical completion and the relevant grant proportions.
13. Schemes acquired for disposal by equity-sharing lease, improvement for sale schemes and leasehold schemes for the elderly, will continue to have grant calculated under 1981 Order arrangements. These arrangements will also apply to schemes, other than those in the Department's programme of mixed funded schemes, which receive approval to invite tenders by 31 March 1993.
14. Grant additional to the maximum limits calculated in accordance with paragraphs 11 and 12 may be payable where the application of the maximum limits would result in an unfunded deficit -
 - a. which would seriously affect the financial viability of an association; or
 - b. arising wholly or substantially within five years of the acquisition of the land or property comprised in the first scheme approved by the Department for the provision of permanent accommodation undertaken by an association, provided the association's stock of permanent accommodation available for letting does not exceed 250 houses or 750 shared housing bedspaces, or the equivalent thereof in mixed

stock (for which purpose 3 shared housing bedspaces are to be taken as equivalent to one house), at the time additional grant is claimed.

15. Grant additional to the maximum limits calculated in accordance with paragraphs 11 and 12 may be payable at the appropriate proportion in respect of the cost of redemption of outstanding loan debt on houses or hostels already owned by associations which are to be improved.
16. For houses or hostels on which major repairs or miscellaneous works are undertaken, grant may be payable to meet the costs which, in the opinion of the Department, are reasonable and appropriate given all the circumstances, with the exception of costs -
 - a. incurred on houses or hostels on which grant has been paid under the provisions of paragraphs 11 and 12 or under the provisions of the pilot programme of mixed-funded schemes as set out in the Department's circular to associations dated 25 October 1989; or
 - b. incurred on houses or hostels in respect of which the Department has permitted a reduction in the association's liabilities under the Grant Redemption Fund or Rent Surplus Fund provisions, in order to make full provision for major repairs and miscellaneous works, unless the need for major repair arises within 10 years of the date of completion of any other scheme in respect of the provision, construction, improvement or major repair of a house or hostel, on which 1981 HAG or 1992 HAG has been paid; or
 - c. incurred on houses or hostels which have been developed, with Housing Association Grant, on an equity-sharing or leasehold for the elderly basis; or
 - d. which the association is reasonably able to meet from its own resources or from the proceeds of receipts or claims against third parties.

17. The Department may pay grant equal to the net costs, which in its opinion, having regard to all the circumstances, are reasonable and appropriate, and which are incurred on schemes for the structural adaptation of houses or hostels owned by associations to meet the needs of physically handicapped tenants or prospective tenants.
18. If costs are incurred by associations due to delay on the part of the Department in making grant payments in accordance with such timetables as the Department may publish from time to time, grant additional to that payable in accordance with paragraphs 11 to 16 may be paid.
19. Grant may be payable to meet the net costs, which in the opinion of the Department are reasonable and appropriate having regard to all the circumstances, of a scheme approved in accordance with the provisions of this Determination if, after approval, it becomes impracticable to complete the scheme at reasonable cost, or within a reasonable period, for reasons beyond the association's control for legal, physical or technical reasons including the reason that there is no longer any housing need for the scheme.
20. Grant additional to the maximum limits calculated in accordance with paragraphs 11 and 12, may be payable in respect of exceptional costs which, in the opinion of the Department, are reasonable and appropriate having regard to all the circumstances, incurred on the provision of a warden for any of an association's self-contained rental stock during periods when it is used as move-on accommodation.
21. Except as provided in paragraph 22, the amount of grant payable under paragraphs 11 to 20 shall represent the limit of subsidy allowable from all public sector sources in respect of any scheme. Where a public sector subsidy, other than one referred to in paragraph 22, or grant under the provisions of this Determination, is paid in support of the costs of providing, constructing, repairing or improving houses, the value of such subsidy shall be deducted from the grant otherwise payable under the provisions of this Determination.

22. Grant or support towards non-housing costs, from any public sector source, will be disregarded in the calculation of grant under this Determination.

Payment Of Grant

23. Claims for payment of grant shall be made to the Department. Applications for payment of grant shall be in such form and made at such times as to enable the Department to make payments of grant in accordance with this Determination.
24. Where Article 33(4) of the 1992 Order (transfer of property to another housing association) applies, the grant payable to the transferee will be calculated as the difference between the total grant payable and any grant already paid to the first or any successor association. Where the property transferred forms only part of a scheme to which the grant relates, the assessment of the portions of both the total grant and the grant already paid that are attributable to the transferred property shall be made on an equitable basis. Where parts of a scheme are transferred to a number of other associations, the same method of apportionment will be used to assess the portion of total grant and grant already paid that are attributable to each part.

Recovery, Reduction, Suspension or Cancellation of 1981 or 1992 HAG

25. For the purpose of Article 35(1) of the 1992 Order, relevant events shall be -
- disposal of property except:
 - a. to a registered housing association;
 - b. the sale of the first share of a property under an equity-sharing lease where the property is specifically provided for sale on equity-sharing terms;
 - c. the sale of property acquired for the purpose of repair, improvement or conversion for sale;

- use of property for a purpose other than that for which grant was originally paid;
- failure to use property for the purpose for which grant was paid or failure to keep it available for such use;
 - failure to comply with any condition attached to the making of grant;
 - discovery that the Department has received incorrect information or made an error in connection with the payment of grant;
 - failure to complete a scheme within a reasonable time;
 - disposal which should give rise to a full or partial repayment of a discount.
26. Grant relating to property will be recovered in full when a relevant event occurs except when paragraphs 28 to 37 apply.
27. Where a relevant event applies to property which forms only a part of property on which grant was paid, grant will be apportioned on an equitable basis.
28. Where property has been sold in whole or in part to a tenant under a voluntary sales scheme the amount of grant to be recovered may be abated or deferred if the proceeds of the sale are insufficient to meet expenses considered by the Department to be reasonable.
29. The expenses considered by the Department to be reasonable, of abortive sales under a voluntary sales scheme should be set against the surpluses on sales in a specified accounting period or periods. Where these surpluses are insufficient to meet those expenses, they may be claimed as an expense against future successful sales under the voluntary sales scheme.
30. Where an association sells a further share of a property sold on equity-sharing terms, and the proceeds are insufficient to repay the grant apportioned to that share, repayment of a proportion of the grant may be deferred, and any surpluses on subsequent sales of other shares within the project should be applied to the repayment of deferred grant recovery. If, when the sale of all shares of property within the project has been

completed there are insufficient proceeds to repay deferred grant recovery still outstanding, that repayment may be abated.

31. The expenses on sales deferred under a voluntary sales scheme shall be treated in the same way as such expenses on aborted transactions under paragraph 29.
32. Where property has been disposed of voluntarily in circumstances other than those described in paragraph 28 or 30 the full amount of grant will be recovered unless the sale is that of vacant property necessary to meet a charge on an association's assets. In these circumstances, grant to be recovered may be abated to the extent necessary for the association to pay the debt secured by the charge.
33. Where an association is repaying grant from its own resources the amount payable may be abated in respect of interest arising after the relevant date through no fault of the association or its agent.
34. Where property ceases to be used or to be available for the purpose for which grant was paid because of a change of use or because it has been demolished the grant to be recovered may be abated on an equitable basis to take account of the period of housing use obtained from that property.
35. Where property has been or is to be demolished the grant to be recovered may be abated on an equitable basis to take account of the original acquisition cost of the land where the Department has approved a further housing association development for the cleared site.
36. Where land or property has been compulsorily purchased and the compensation received is insufficient to repay the grant attributable to that dwelling an abatement on an equitable basis may be made unless surpluses on sales of other land or property within the same vesting order, which received grant, are available to cover the deficit in whole or in part.
37. Where recovery of grant, with or without abatement, in accordance with the provisions of paragraphs 26 to 36 would place an association in financial difficulty, the Department may abate, or further abate recovery.

38. Where a scheme has not been completed within a period specified by the Department the grant recoverable shall be that which in the opinion of the Department is reasonable and appropriate having regard to all the circumstances.
39. Where grant recovery has been abated in respect of a sale to a sitting tenant under the voluntary sales scheme, and a disposal takes place which should give rise to a full or partial repayment of a discount, the grant abated shall be recovered on an equitable basis.
40. The Department may charge interest on the amount of grant to be recovered. The rates of interest charged and the periods for which such interest may be charged shall be such rates and periods as the Department considers to be equitable taking into account the principle that notifications and repayments should be made promptly.

Transitional Arrangements

41. The 1981 Order Arrangements shall apply to schemes for major repair or miscellaneous works to dwellings approved by the Department prior to 16 September 1992.
42. The 1981 Order Arrangements shall apply to schemes approved by the Department prior to 16 September 1992, which become impossible to complete.



F R RODGERS
Assistant Secretary
Department of the Environment
for Northern Ireland

15 September 1992