

*A proposal in the form of a draft Order laid before both Houses of Parliament under section 6(1) of the Regulatory Reform Act 2001*

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DRAFT STATUTORY INSTRUMENTS

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**200[2] No.**

**HOUSING, ENGLAND AND WALES**

**REGULATORY REFORM**

**The Regulatory Reform (Housing Assistance) (England and Wales) Order 200[2]**

*Made* - - - -

*Coming into force* -

Whereas:

- (a) the Secretary of State for Transport, Local Government and the Regions, as respects England, and the Secretary of State for Wales, as respects Wales, (“the Secretaries of State”) are each of the opinion that—
  - (i) certain provisions of the Housing Act 1985<sup>(1)</sup>, the Local Government and Housing Act 1989<sup>(2)</sup>, and the Housing Grants, Construction and Regeneration Act 1996<sup>(3)</sup> impose burdens upon local housing authorities in the exercise of their functions in relation to the provision of financial and other assistance for, or in connection with, the improvement, repair and renovation of housing;
  - (ii) Chapter 1 of Part 1 of the Housing Grants, Construction and Regeneration Act 1996 contains an anomaly, in that it provides for grants under section 1(1)(c) of that Act to be available in relation to dwellings but not in relation to houseboats or park homes;

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<sup>(1)</sup> 1985 c.68.  
<sup>(2)</sup> 1989 c.42.  
<sup>(3)</sup> 1996 c.53.

- (iii) the provisions of this Order do not remove any necessary protection, or prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise;
  - (iv) the provisions of this Order, taken as a whole, strike a fair balance between the public interest and the interests of the persons affected by burdens created by this Order;
  - (v) the extent to which this Order removes or reduces the burdens referred to in sub-paragraph (i), or has other beneficial effects for persons affected by those burdens, makes it desirable for this Order to be made;
- (b) the Secretaries of State have consulted<sup>(4)</sup>—
- (i) such organisations as appear to them to be representative of interests substantially affected by the provisions of this Order,
  - (ii) such organisations as appear to them to be representative of statutory bodies to whose functions those provisions relate;
  - (iii) the National Assembly for Wales, and
  - (iv) such other persons as they consider appropriate;
- (c) the Secretaries of State, having undertaken that consultation, consider it appropriate to proceed with the making of this Order;
- (d) the Secretaries of State have laid before Parliament a document containing proposals in the form of a draft of the order, together with details of the matters specified in section 6(2) of the Regulatory Reform Act 2001;
- (e) in relation to that document, the period for Parliamentary consideration (within the meaning of section 8 of that Act) has expired;
- (f) the Secretaries of State have had regard to the representations made during that period and, in particular, to the [resolution][report] of [*to be specified*] with regard to that document;

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<sup>(4)</sup> By virtue of section 5(4) of the Regulatory Reform Act 2001(c.6), consultation undertaken before 10th April 2001 (the day on which the Act was passed) is treated as satisfying the consultation requirements of section 5(1) of that Act to the extent that, if it had been undertaken after that day, it would have satisfied those requirements. A consultation paper “Private sector housing renewal: Reform of the Housing Grants, Construction and Regeneration Act 1996, Local Government and Housing Act 1989 and Housing Act 1985” was published by the Department of the Environment, Transport and the Regions in March 2001. Copies may be obtained from the Department for Transport, Local Government and the Regions Free Literature, PO Box 236, Wetherby, West Yorkshire, LS23 7NB (tel: 0870 1226 236).

- (g) the Secretaries of State have laid with a draft of the order a statement giving details of the matters specified in section 8(5) of the Regulatory Reform Act 2001; and
- (h) the Secretaries of State have secured the agreement of the National Assembly for Wales to the making of the order (which includes provision removing or modifying functions of the Assembly):

Now, therefore, the Secretary of State for Transport, Local Government and the Regions, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred by section 1 of the Regulatory Reform Act 2001, with the agreement of the National Assembly for Wales, hereby make the following Order, of which a draft has been laid before, and approved by resolution of, each House of Parliament:

### **Citation and commencement**

**1.**—(1) This Order may be cited as the Regulatory Reform (Housing Assistance) (England and Wales) Order 200[2].

(2) The following provisions—

- (a) this article,
- (b) articles 2 to 9 and Schedule 1,
- (c) article 14 and Schedule 5,
- (d) article 15 and Schedule 6, in so far as they relate to—
  - (i) the Local Government Act 1988<sup>(5)</sup>,
  - (ii) the Government of Wales Act 1998<sup>(6)</sup>, and
  - (iii) the 1989 Act, except sections 93 and 169,

shall come into force on the day after that on which this Order is made.

(3) The following provisions—

- (a) article 10 and Schedule 2,
- (b) article 11 and Schedule 3,
- (c) article 12 and Schedule 4,
- (d) article 13,
- (d) article 15 and Schedule 6 (in so far as they are not already in force),

shall come into force on the day that falls 12 months after the day on which this Order is made.

### **Interpretation**

**2.** In this Order, unless the context otherwise requires—

“the 1996 Act” means the Housing Grants, Construction and Regeneration Act 1996<sup>(7)</sup>;

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<sup>(5)</sup> 1988 c.9.  
<sup>(6)</sup> 1998 c.38.  
<sup>(7)</sup> 1996 c.53.

“the 1989 Act” means the Local Government and Housing Act 1989<sup>(8)</sup>;

“the 1985 Act” means the Housing Act 1985<sup>(9)</sup>;

“the appropriate Minister”—

(a) in relation to a local housing authority in England, means the Secretary of State;

(b) in relation to a local housing authority in Wales, means the National Assembly for Wales;

“assistance” means assistance under article 3;

“assisted work” means work of any description in relation to the carrying out of which assistance is provided;

“living accommodation” means any of the following—

(a) a building or part of a building;

(b) a caravan, within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960<sup>(10)</sup> (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968<sup>(11)</sup>); and

(c) a boat or similar structure,

occupied or available for occupation for residential purposes (whether, in the case of a building or part of a building, in single or multiple units); and includes any yard, garden, outhouses and appurtenances belonging to the building or, as the case may be, the caravan, or the boat or similar structure, or usually enjoyed with it;

“local housing authority” means a district council, a London borough council, the Common Council of the City of London, a Welsh county council or county borough council, or the Council of the Isles of Scilly.

### **Power of local housing authorities to provide assistance.**

**3.—**(1) For the purpose of improving living conditions in their area, a local housing authority may provide, directly or indirectly, assistance to any person for the purpose of enabling him—

(a) to acquire living accommodation (whether within or outside their area);

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<sup>(8)</sup> 1989 c.42.

<sup>(9)</sup> 1985 c.68.

<sup>(10)</sup> 1960 c.62.

<sup>(11)</sup> 1968 c.52.

- (b) to adapt or improve living accommodation (whether by alteration, conversion or enlargement, by the installation of any thing or injection of any substance, or otherwise);
- (c) to repair living accommodation;
- (d) to demolish buildings comprising or including living accommodation;
- (e) where buildings comprising or including living accommodation have been demolished, to construct buildings that comprise or include replacement living accommodation.

(2) The power conferred by paragraph (1)(a) may be exercised to assist a person to acquire living accommodation only where the authority—

- (a) have acquired or propose to acquire (whether compulsorily or otherwise) his existing living accommodation; or
- (b) are satisfied that the acquisition of other living accommodation would provide for that person a benefit similar to that which would be provided by the carrying out of work of any description in relation to his existing living accommodation.

(3) Assistance may be provided in any form.

(4) Assistance may be unconditional or subject to conditions, including conditions as to the repayment of the assistance or of its value (in whole or in part), or the making of a contribution towards the assisted work; but before imposing any such condition, or taking steps to enforce it, a local housing authority shall have regard to the ability of the person concerned to make that repayment or contribution.

(5) Before a local housing authority provide assistance to any person, they shall—

- (a) give to that person a statement in writing of the conditions (if any) to which the assistance is to be subject; and
- (b) satisfy themselves that that person has received appropriate advice or information about the extent and nature of any obligation (whether financial or otherwise) to which he will become subject in consequence of the provision of assistance.

(6) A local housing authority may take any form of security in respect of the whole or part of any assistance.

(7) Where any such security is taken in the form of a charge on any property, the local housing authority may at any time reduce the priority of the charge or secure its removal.

(8) This article is subject to articles 4 and 5.

(9) Nothing in this article affects any power of a local housing authority under Part 14 of the 1985 Act (loans for acquisition or improvement of housing).

### **Provision of assistance: supplementary**

4. A local housing authority may not exercise the power conferred by article 3 in any case unless—

- (a) they have adopted a policy for the provision of assistance under that article;
- (b) they have given public notice of the adoption of the policy;
- (c) they have secured that—
  - (i) a document in which the policy is set out in full is available for inspection, free of charge, at their principal office at all reasonable times; and
  - (ii) copies of a document containing a summary of the policy may be obtained by post (on payment, where a reasonable charge is made, of the amount of the charge); and
- (d) the power is exercised in that case in accordance with that policy.

### **Protective provisions**

5.—(1) A local housing authority may not provide assistance for a purpose specified in article 3(1)(b), (c) or (d) unless they are satisfied that the owner of the living accommodation concerned has consented to the carrying out of the assisted work.

(2) For the purposes of paragraph (1), “owner”—

- (a) in relation to living accommodation comprising a building or part of a building, means the person who—
  - (i) is for the time being entitled to receive from a tenant of the accommodation (or would be so entitled if the accommodation were let) a rent at an annual rate of not less than two-thirds of the net annual value of the accommodation; and
  - (ii) is not himself liable as tenant of the accommodation, or of property which includes the accommodation, to pay such a rent to a superior landlord;
- (b) in relation to living accommodation comprising a caravan or a boat or similar structure, means the person who is for the time being entitled to dispose of the caravan or boat or similar structure.

(3) In paragraph (2), “net annual value”, in relation to living accommodation, means the rent at which the accommodation might reasonably be expected to be let from year to year if the tenant undertook to pay all usual tenant’s rates and taxes and to bear the cost of repair and insurance and the other expenses, if any, necessary to maintain the accommodation in a state to command that rent.

(4) Any dispute arising as to the net annual value of living accommodation shall be referred in writing for decision by the district valuer.

(5) In paragraph (4), “district valuer”, in relation to living accommodation in respect of which a person has applied or proposes to apply to a local housing authority for assistance, means an officer of the Commissioners of Inland Revenue appointed by the Commissioners for the purpose of deciding, in relation to the authority, any dispute under that paragraph.

(6) Where a local housing authority have specified, or approved the specification for, assisted work, they shall not vary, or require the variation of, that specification unless they have obtained the consent of every person who, in the authority’s opinion, is likely to be affected to any material extent by the variation.

(7) A local housing authority shall not vary or revoke any condition to which assistance is subject except on the application or with the consent of the person to whom the assistance was provided.

### **Provision of information and evidence**

6. A local housing authority may require a person—

- (a) to whom assistance has been provided; or
- (b) who has applied for assistance,

to give to them, within such period as they may reasonably specify, such information or evidence (including information or evidence relating to his financial circumstances) as the authority may reasonably require for the purposes of, or purposes connected with, the exercise of their powers under article 3.

### **Contributions towards expenditure of local housing authorities**

7.—(1) Contributions towards expenditure incurred by a local housing authority in providing assistance may be paid by the appropriate Minister.

(2) The rate or rates of the contributions, the calculation of the expenditure to which they relate and the manner of their payment shall be determined by the appropriate Minister.

(3) A determination under paragraph (2)—

(a) may be made generally or with respect to a particular local housing authority or description of authority, including a description framed by reference to authorities in a particular area, and

(b) may make different provision in relation to different cases or descriptions of case.

(4) Contributions under this article shall be payable subject to such conditions as to records, certificates, audit or otherwise as the appropriate Minister may impose.

(5) Where the appropriate Minister is the Secretary of State, the consent of the Treasury is required before any determination is made under paragraph (2) or any conditions are imposed under paragraph (4).

### **Recovery of contributions**

8.—(1) Where the appropriate Minister has paid contributions under article 7 to a local housing authority, he may recover from the authority such amount as he determines to be appropriate in respect of repayments of assistance.

(2) The amount shall be calculated by reference to the amount appearing to the appropriate Minister to represent his contribution to—

- (a) assistance in respect of which repayments have been made to the authority, or
- (b) assistance in respect of which repayments could have been recovered if reasonable steps had been taken by the authority,

together with an appropriate percentage of any interest received by the authority, or which would have been received if reasonable steps had been taken by the authority.

(3) The question what steps it would have been reasonable for the authority to take shall be determined by the appropriate Minister.

### **Amendments consequential on article 3**

9. Schedule 1, which makes amendments consequential on article 3, shall have effect.

### **Amendment of section 435 of the 1985 Act and consequential provision**

10.—(1) Section 435 of the 1985 Act (power of local authorities to advance money) is amended in accordance with Part 1 of Schedule 2.

(2) Part 2 of that Schedule, which makes provision consequential on paragraph (1), shall have effect.

(3) Nothing in paragraph (1) or (2) affects advances made by a local authority under section 435(1)(d) of the 1985 Act (advances for altering, enlarging, repairing or improving houses or for facilitating repayment of previous loans) before the date on which this article comes into force.

### **Amendment of the 1996 Act**

11.—(1) The 1996 Act is amended in accordance with Schedule 3.

(2) Paragraph (1) does not apply in relation to—

- (a) applications approved under Chapter 1 of Part 1 of the 1996 Act (the main grants) or Chapter 3 of that Part (home repair assistance) before the date on which this article comes into force; or
- (b) schemes under Chapter 2 of that Part (group repair schemes) in respect of which the date of approval<sup>(12)</sup> is before the date on which this article comes into force.

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<sup>(12)</sup> For the date of approval in the case of group repair schemes not submitted for specific approval *see* section 64(1) of the Housing Grants, Construction and Regeneration Act 1996.



### **Other consequential amendments**

12. Schedule 4, which amends enactments in consequence of article 11, has effect.

### **Amendment of section 93 of the 1989 Act**

13.—(1) Section 93 of the 1989 Act (general powers of local housing authority) is amended as follows.

(2) In subsection (5), omit paragraph (b) (and the word “and” immediately preceding it) and the words following it.

(3) In subsection (6), omit “all or any of”.

(4) Nothing in paragraph (1) affects the provision of assistance under section 93 of the 1989 Act in a case in which an agreement to provide that assistance was entered into before the date on which this article comes into force.

### **Amendment of Part 7 of the 1989 Act**

14.—(1) Part 7 of the 1989 Act (renewal areas) is amended in accordance with Schedule 5.

(2) Paragraph (1) does not apply in relation to renewal areas declared before the date on which this article comes into force.

### **Repeals**

15.—(1) The enactments specified in Schedule 6 are repealed to the extent specified.

(2) Any transitional provision made by—

- (a) paragraph (3) of article 10,
- (b) paragraph (2) of article 11,
- (c) paragraph (4) of article 13, or
- (d) paragraph (2) of article 14,

applies in relation to any repeal made by Schedule 6 as it applies to any amendments to which the repeal relates.

Signed by authority of the Secretary of State for Transport,  
Local Government and the Regions

200[2]

Minister of State,  
Department for Transport,  
Local Government and the Regions

Secretary of State for Wales

200[2]

## SCHEDULE 1

article 9

### AMENDMENTS CONSEQUENTIAL ON ARTICLE 3

#### *Rent Act 1977*

1.—(1) Section 116 of the Rent Act 1977 (consent of tenant)(13), is amended in accordance with sub-paragraphs (2) to (4) below.

(2) In subsection (2), for “the condition specified in subsection (3)” substitute “either of the conditions specified in subsections (3) and (3A)”.

(3) In subsection (3), for “condition” substitute “first of the conditions referred to in subsection (2) above”.

(4) After subsection (3), insert the following subsection—

“(3A) The second of those conditions is that assistance was or is to be provided in relation to the carrying out of the works under article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 200[2]”.

#### *Landlord and Tenant Act 1985*

2. In section 20A of the Landlord and Tenant Act 1985 (limitation of service charges: grant-aided works)(14), in subsection (1), after “earlier enactment”, insert “or article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 200[2] (power of local housing authorities to provide assistance)”.

#### *Local Government Act 1988*

3. In section 25 of the Local Government Act 1988 (consent required for provision of financial assistance etc)(15), in subsection (2)(f), at the end of sub-paragraph (iii) insert —

“or

(iv) article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 200[2] (power of local housing authorities to provide assistance)”.

## SCHEDULE 2

article 10

### AMENDMENTS OF EXISTING POWER TO ADVANCE MONEY

#### PART 1

#### AMENDMENT OF SECTION 435 OF THE HOUSING ACT 1985

1. Section 435 of the Housing Act 1985 (power of local authorities to advance money) is amended in accordance with paragraphs 2 and 3 below.

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(13) 1977 c.42. Subsection (3) was substituted by the Housing Grants, Construction and Regeneration Act 1996, Schedule 1, paragraph 1.

(14) Section 20A was inserted by the Housing and Planning Act 1986 (c.63), Schedule 5, Part 1, paragraph 9(1). Subsection (1) was numbered as such by virtue of the Local Government and Housing Act 1989 (c.42), Schedule 11, paragraph 90, and amended by the Housing Grants, Construction and Regeneration Act 1996, Schedule 1, paragraph 11(1).

(15) 1988 c.9.

2. In subsection (1), omit paragraph (d) and the word “or” immediately preceding that paragraph.

3. After subsection (1), insert the following subsection—

“(1A) A local authority which is not a local housing authority may advance money to a person—

(a) for the purpose of altering, enlarging, repairing or improving a house, or

(b) for the purpose of facilitating the repayment of an amount outstanding on a previous loan made for any of those purposes.”.

## PART 2

### AMENDMENT OF SECTION 435: CONSEQUENTIAL AMENDMENTS TO 1985 ACT

4.—(1) The 1985 Act is amended in accordance with sub-paragraphs (2) to (4) below.

(2) In section 436 (terms of advance), in subsection (4), for “section 435(1)(b) to (d)” substitute “section 435(1)(b) and (c) and (1A)”.

(3) In section 439 (requirements as to fitness of premises, &c.)—

(a) in subsection (2), for “subsection (1)(b) to (d)” substitute “subsections (1)(b) and (c) and (1A)”; and

(b) in subsection (3)—

(i) for “section 435(1)” substitute “subsection (1) of section 435”,

(ii) after “(repayment of previous loan)” insert “or in subsection (1A)(b) of that section (repayment of previous loan for improvements etc)”, and

(iii) in paragraph (b), for the words from “paragraph” to the end substitute—

“(i) subsection (1)(c) of that section (conversion), or

(ii) subsection (1A)(a) of that section (improvements, etc),

as the case may be.”.

(4) In section 442 (agreement by local authority to indemnify mortgagee), in subsection (1A)(16), after “subsection (1)”, insert “or (1A)”.

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(16) Subsection (1A) was inserted by the Housing Act 1996 (c.52), Schedule 18, paragraph 27.

AMENDMENT OF THE HOUSING GRANTS, CONSTRUCTION  
AND REGENERATION ACT 1996

1. In Part 1 of the 1996 Act, Chapter 1 (the main grants) is amended in accordance with paragraphs 2 to 26 below.
  
2. In section 1 (grants for improvements and repairs, &c.)—
  - (a) in subsection (1)—
    - (i) omit paragraphs (a) and (b) (and the word “and” at the end of paragraph (b)); and
    - (ii) in paragraph (c), for the words from “in dwellings” to the end, substitute—
      - “(i) in dwellings, qualifying houseboats and qualifying park homes, and
      - (ii) in the common parts of buildings containing one or more flats.”;
  
  - (b) omit subsections (2) to (5); and
  
  - (c) in subsection (6), for the words from “, without more” to the end, substitute “means a grant under subsection (1) above”.
  
3. Sections 4 to 18 shall cease to have effect..
  
- 4.—(1) Section 19 (disabled facilities grants: owner’s and tenant’s applications) is amended in accordance with sub-paragraphs (2) to (4) below.
  - (2) In subsection (1)—
    - (a) omit “disabled facilities”; and
    - (b) at the end of paragraph (b), insert—
      - “, or
      - (c) that the applicant is an occupier (alone or jointly with others) of a qualifying houseboat or a qualifying park home.”.
  
  - (3) In subsection (2)—
    - (a) after ““tenant’s application” ”, insert “or an “occupier’s application” ”; and
    - (b) omit “disabled facilities”.
  
  - (4) in subsections (4) and (5), omit “disabled facilities” (in each place where those words appear).
  
5. In the following provisions—
  - (a) section 20 (disabled facilities grants: the disabled occupant),

(b) section 21 (disabled facilities grants: certificate required in case of owner's application),

(c) section 22 (disabled facilities grants: certificates required in case of tenant's application),

omit "disabled facilities" (in each place where those words appear).

6. After section 22 insert the following section—

*"Certificates required in case of occupier's application*

**22A.**—(1) A local housing authority shall not entertain an occupier's application for a grant unless it is accompanied by an occupier's certificate.

(2) An "occupier's certificate", for the purposes of an application for a grant, certifies—

(a) that the application is an occupier's application, and

(b) that the applicant intends that he (if he is the disabled occupant) or the disabled occupant will live in the qualifying houseboat or qualifying park home (as the case may be) as his only or main residence throughout the grant condition period or for such shorter period as his health and other relevant circumstances permit.

(3) Except where the authority consider it unreasonable in the circumstances to require such a certificate, they shall not entertain an occupier's application for a grant unless it is also accompanied by a consent certificate from each person (other than the applicant) who at the time of the application—

(a) is entitled to possession of the premises at which the qualifying houseboat is moored or, as the case may be, the pitch on which the qualifying park home is stationed; or

(b) is entitled to dispose of the qualifying houseboat or, as the case may be, the qualifying park home.

(4) A "consent certificate", for the purposes of subsection (3), certifies that the person by whom the certificate is given consents to the carrying out of the relevant works."

7. In section 23 (disabled facilities grants: purposes for which grant must or may be given)—

(a) in subsection (1)—

(i) omit "disabled facilities";

(ii) in paragraph (a), for "the dwelling or" (in the first place where those words appear), substitute—

"(i) the dwelling, qualifying houseboat or qualifying park home, or

(ii)";

(iii) in paragraph (b), for "the dwelling or building safe" substitute—

"(i) the dwelling, qualifying houseboat or qualifying park home, or

(ii) the building,

safe"; and

(iv) in each of paragraphs (i) and (k), after "the dwelling" (in the first place where those words appear), insert ", qualifying houseboat or qualifying park home" and for "in the dwelling" substitute "there";

(b) omit subsection (2); and

(c) in subsection (3), omit "or the purpose mentioned in subsection (2)".

8. In section 24 (disabled facilities grants: approval of application)—
- (a) for subsection (1), substitute the following subsection—

“(1) The local housing authority shall approve an application for a grant for purposes within section 23(1), subject to the following provisions.”;
  - (b) in subsection (3)(b), for “the dwelling or” substitute—

“(i) the dwelling, qualifying houseboat or qualifying park home, or  
(ii) the”; and
  - (c) omit “disabled facilities” ( in each place where those words appear).
9. Sections 25 to 28 shall cease to have effect.
10. In section 29 (restriction on grants for works already begun)—
- (a) in subsection (3)—
    - (i) after “dwelling”, insert “, qualifying houseboat, qualifying park home or”; and
    - (ii) omit “or house or other building”;
  - (b) in subsection (4), omit “Subject as follows,” ; and
  - (c) omit subsections (5) and (6).
11. In section 30 (means testing in case of application by owner-occupier or tenant)—
- (a) omit subsections (1) to (3);
  - (b) in subsection (4), omit “disabled facilities ”; and
  - (c) in subsection (5), omit “(3) or”.
12. In section 31 (determination of amount of grant in case of landlord’s application)—
- (a) for subsection (1), substitute the following subsection—

“(1) This section applies to an owner’s application in respect of works to a dwelling which is or is intended to be let, or to the common parts of a building in which a flat is or is intended to be let.”; and
  - (b) omit subsection (2).
13. Section 32 shall cease to have effect.
14. In section 33 (power to specify maximum amount of grant)—
- (a) in subsection (2) omit “different types of grant, or for the same type of grant in”;
  - (b) omit subsection (3); and
  - (c) in subsection (4) omit “, except as mentioned in subsection (3),”.

15. In section 36 (delayed payment of mandatory grant), in subsection (1), for the words from the beginning to “do so”, substitute “The local housing authority may approve an application for a grant”.

16. In section 40 (applicant ceasing to be entitled before payment of grant)—

- (a) in subsection (1), omit “of that description”;
- (b) in subsection (2), for paragraphs (a) and (b) and the word “and” immediately following paragraph (b), substitute —
  - “(a) no grant shall be paid or, as the case may be, no further instalments shall be paid, and
  - (b)”;
- (c) omit subsection (3);
- (d) in subsection (4), omit “disabled facilities”; and
- (e) omit subsections (5) and (6).

17. In section 41 (change of circumstances affecting disabled occupant), in subsection (1)—

- (a) omit “disabled facilities”; and
- (b) in paragraph (b), after “dwelling” insert “, qualifying houseboat, qualifying park home”.

18. In section 43 (repayment where applicant not entitled to grant)—

- (a) in subsection (1), omit “of that description”;
- (b) in subsection (2), for paragraphs (a) and (b) and the word “and” immediately following paragraph (b), substitute —
  - “(a) no grant shall be paid or, as the case may be, no further instalments shall be paid, and
  - (b)”;
- (c) omit subsection (3);
- (d) in subsection (4)—
  - (i) omit “disabled facilities”; and
  - (ii) at the end of paragraph (b) insert the following—
    - “or
    - (c) in the case of an occupier’s application, if he does not have the intention specified in the occupier’s certificate which accompanied the application.”; and
- (e) omit subsections (5) and (6).

19. In section 44 (grant conditions: introductory)—

(a) in subsection (1)—

- (i) for “The following sections”, substitute “Sections 51 and 52”; and
- (ii) for “any”, substitute “either”;

(b) in subsection (2), omit paragraphs (a) and (b) and the word “and” at the end of paragraph (b); and

(c) in subsection (4), for “the following sections”, substitute “sections 51 and 52”.

20. Sections 45 to 50 shall cease to have effect.

21. In section 52 (power to impose other conditions with consent of Secretary of State)—

(a) in subsection (2), in paragraph (a), omit “, house”;

(b) omit subsection (3); and

(c) in subsection (5), for “sections 45 to 51”, substitute “section 51”.

22. Sections 53 and 54 shall cease to have effect.

23. In section 55 (cessation of conditions on repayment of grant, &c.)—

(a) in subsection (1), omit “, house” (in each place where that word appears); and

(b) omit subsection (2).

24. In section 57 (power of local housing authority to carry out works which would attract grant)—

(a) for subsection (2), substitute the following subsection—

“(2) In subsection (1), the reference to a person having the requisite interest is a reference to—

(a) in the case of a qualifying houseboat or qualifying park home, the person who is—

(i) entitled to possession of the premises at which the qualifying houseboat is moored or the pitch on which the qualifying park home is stationed, or

(ii) entitled to dispose of the qualifying houseboat or qualifying park home, or

(b) in any other case, the person who has an owner’s interest.”; and

(b) omit subsection (3).



25. In section 58 (minor definitions: Chapter 1)—

(a) in the definition of “common parts application”, omit “disabled facilities”;

(b) omit the definition of “conversion application”; and

(c) after the definition of “flat”, insert the following definitions—

“ “premises” includes a qualifying houseboat or a qualifying park home;”

“ “qualifying houseboat” means a boat or similar structure designed or adapted for use as a place of permanent habitation which—

(a) has its only or main mooring within the area of a single local housing authority;

(b) is moored in pursuance of a right to that mooring; and

(c) is a dwelling for the purposes of Part 1 of the Local Government Finance Act 1992 (council tax),

and includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;”

“ “qualifying park home” means a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968) which—

(a) is stationed on land forming part of a protected site within the meaning of the Mobile Homes Act 1983;

(b) is occupied under an agreement to which that Act applies or under a gratuitous licence; and

(c) is a dwelling for the purposes of Part 1 of the Local Government Finance Act 1992 (council tax),

and includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it.”(17).

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(17) See the Local Government Finance Act 1992 c.14; the Caravan Sites and Control of Development Act 1960 (c.62); the Caravan Sites Act 1968 (c.52); and the Mobile Homes Act 1983 (c.34).

26. In section 59 (index of defined expressions: Chapter 1)—

(a) omit the entries (both columns) relating to the following expressions —

“certificate of future occupation (in relation to an application for an HMO grant)”

“certificate of intended letting (in relation to an application for a renovation grant)”

“common parts grant”

“connected (with the owner of a dwelling)”

“conversion application”

“disabled facilities grant”

“elderly”

“exempt disposal”

“HMO grant”

“house in multiple occupation”

“improvement”

“landlord’s application

-in relation to a renovation grant

-in relation to a common parts grant”

“long tenancy”

“occupying tenant (in relation to an application for a common parts grant)”

“owner-occupation certificate (in relation to an application for a renovation grant)”

“participating landlord (in relation to a tenants’ application for a common parts grant)”

“partner”

“reasonable repair”

“registered social landlord”

“relevant disposal”

“renewal area”

“renovation grant”

“tenants’ application (in relation to a common parts grant)”;

(b) in the entry relating to “common parts application (in relation to a disabled facilities grant)” omit “disabled facilities”;

(c) in the entry relating to “grant”, omit “(without more)”;

(d) in the entry relating to “owner’s application”, omit—

(i) “-in relation to a renovation grant section 7(1) and (2)”;

(ii) “disabled facilities”;

(e) in the entry relating to “owner’s certificate (in relation to an application for a disabled facilities grant)”, omit “disabled facilities”;

(f) in the entry relating to “qualifying owner’s interest”, omit—

(i) “-in relation to an application for a renovation grant section 7(4)”;

(ii) “disabled facilities”; and

(iii) “-in relation to an application for an HMO grant section 25(3)”;

(g) in the entry relating to “qualifying tenant”, omit—

(i) “-in relation to an application for a renovation grant section 7(5)”;

(ii) “disabled facilities”;

(h) in the entry relating to “secure tenancy and secure tenant”, omit “secure tenancy and”;

(i) in the entry relating to “statutory tenancy and statutory tenant”, omit “statutory tenancy and”;

(j) in the entry relating to “tenant (and expressions relating to tenancies)”, omit —

- (i) “-in the context of a tenant’s application for a renovation grant” section 7(6);
- (ii) “-in the context of a certificate of intended letting” section 8(4);
- (iii) “-in the context of an application for a common parts grant” section 14(2); and
- (iv) “disabled facilities”;

(k) in the entry relating to “tenant’s application” omit—

- (i) “-in relation to a renovation grant” section 7(1) and (2); and
- (ii) “disabled facilities”;

(l) in the entry relating to “tenant’s certificate”, omit—

- (i) “-for the purposes of an application for a renovation grant” section 9(2); and
- (ii) “disabled facilities”;

(m) insert, at the appropriate places—

- |                          |                        |
|--------------------------|------------------------|
| “occupier’s application” | section 19(1) and (2)” |
| “premises”               | section 58”            |
| “qualifying houseboat”   | section 58”            |
| “qualifying park home”   | section 58”.           |

27. In Part 1 of the 1996 Act, omit Chapters 2 (group repair schemes) and 3 (home repair assistance).

28. In Part 1 of the 1996 Act, Chapter 5 (supplementary provisions) is amended in accordance with paragraphs 29 to 35 below.

29. In section 93 (recovery of contributions), omit subsection (2).

30. In section 94 (consent of the Secretary of State), omit paragraph (a) and the word “or” at the end of that paragraph.

31. In section 95 (parsonages, charities, &c.)—

(a) in subsection (1), for the words from the beginning to “below”, substitute “Sections 19 and 21 to 22A (conditions for application for grant)”; and

(b) omit subsections (2), (4) and (5).

32. Section 96 shall cease to have effect.

33. In section 98 (member of a person’s family and connected persons), omit subsection (2).

34. In section 101 (minor definitions: Part 1)—

(a) omit the definitions of—

“elderly”

“house in multiple occupation”

“improvement”

“long tenancy”

“partner”;

(b) in the definition of “owner”, omit “; and, in relation to a house in multiple occupation, has the same meaning as in Part XI of the Housing Act 1985”;

(c) in the definition of “secure tenancy” and “secure tenant”, for the words from the beginning to “have”, substitute “ “secure tenant” has”; and

(d) in the definition of “statutory tenancy” and “statutory tenant”, for the words from the beginning to “tenancy or”, substitute “ “statutory tenant” means a”.

35. In section 102 (transitional and consequential provisions), in subsection (1), for “Chapters I to III”, substitute “Chapter 1”.

36. In Part 4, sections 131 to 140 (relocation grants in clearance areas) shall cease to have effect.

## SCHEDULE 4

article 12

### OTHER CONSEQUENTIAL AMENDMENTS

#### *Rent Act 1977*

1. In section 116 of the Rent Act 1977 (consent of tenant), in subsection (3), omit the words from “renovation grant” to “an HMO”.

#### *Housing Act 1985*

2.—(1) The 1985 Act is amended in accordance with sub-paragraphs (2) to (4) below.

(2) In section 100 (power to reimburse cost of tenant’s improvements), omit subsection (2).

(3) In section 244 (environmental works), omit subsection (3).

(4) In section 255 (general powers of local housing authority), in subsection (2), omit paragraph (b), and the word “or” immediately preceding that paragraph.

#### *Local Government and Housing Act 1989*

3. In section 169 of the 1989 Act (powers of local authorities and Secretary of State as respects services etc. for owners and occupiers of houses for work on them), in subsection (2), omit paragraphs (c) and (d).

## SCHEDULE 5

article 14

### AMENDMENT OF PART 7 OF THE LOCAL GOVERNMENT AND HOUSING ACT 1989

1. Part 7 of the 1989 Act (renewal areas) is amended in accordance with paragraphs 2 to 7 below.

2.—(1) Section 89 (declaration of renewal area) is amended as follows.

(2) In subsection (1)—

- (a) for “such a report as is”, substitute “a report containing particulars of the matters”; and
- (b) at the end, insert “for the period specified in the declaration”.

(3) Omit subsection (2).

(4) For subsections (3) to (7), substitute the following subsections—

“(3) The matters referred to in subsection (1) above are—

- (a) the living conditions in the area concerned;
- (b) the ways in which those conditions may be improved (whether by the declaration of a renewal area or otherwise);
- (c) the powers available to the authority (including powers available apart from this Act) if the area is declared to be a renewal area;
- (d) the authority's detailed proposals for the exercise of those powers during the period that the area will be a renewal area (if so declared);
- (e) the cost of those proposals;
- (f) the financial resources available, or likely to be available, to the authority (from whatever source) for implementing those proposals; and
- (g) the representations (if any) made to the authority in relation to those proposals,

and the report shall contain a recommendation, with reasons, as to whether a renewal area should be declared and, if so, the period for which the area should be a renewal area.

(4) Subject to section 95 below, an area which is declared to be a renewal area shall be such an area—

- (a) until the end of the period specified in the declaration, or
- (b) if at any time during that period the local housing authority by resolution extend the period for which the area is to be a renewal area, until the end of the period specified in the resolution (unless further extended under this paragraph).

(5) In considering whether—

- (a) to declare an area to be a renewal area, or
- (b) to extend the period for which an area is to be a renewal area,

a local housing authority shall have regard to such guidance as may from time to time be given by the Secretary of State.

(6) Before exercising their power—

- (a) to declare an area to be a renewal area, or
- (b) to extend (or further extend) the period for which an area is to be a renewal area,

a local housing authority shall take the steps required by subsection (7) below.

(7) Those steps are such as appear to the authority best designed to secure—

(a) that the detailed proposals referred to in subsection (3)(d) above or, where the authority are considering the extension of the period for which an area is to be a renewal area, such of those proposals as remain to be implemented, are brought to the attention of persons residing or owning property in the area; and

(b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning those proposals.

(8) A resolution under subsection (1) or (4)(b) above has effect from the day on which it is passed and is a local land charge.”.

3. Section 90 shall cease to have effect.

4. For section 91 (steps to be taken after declaration of renewal area), substitute the following section—

*“Renewal area: steps to be taken after declaration or extension*

**91.**—(1) As soon as may be after—

(a) declaring an area to be a renewal area; or

(b) extending (or further extending) the period for which an area is to be a renewal area,

a local housing authority shall take the steps required by subsection (2) below.

(2) Those steps are such as appear to the authority best designed to secure—

(a) that the resolution to which the declaration, or extension (or further extension) of the period, relates is brought to the attention of persons residing or owning property in the area; and

(b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning action to be taken with respect to the renewal area.”.

5. In section 92 (duty to publish information), omit subsection (2).

6.—(1) Section 95 (exclusion of land from, or termination of, renewal area) is amended as follows.

(2) In subsection (1), for “subsections (3) to (5)” substitute “subsection (5)”.

(3) For subsection (2), substitute the following subsection—

“(2) Before exercising any power under subsection (1) above, an authority shall take such steps as appear to the authority best designed to secure—



(a) that the proposed exclusion or cessation, as the case may be, is brought to the attention of persons residing or owning property in the area; and

(b) that those persons are informed of the name and address of the person to whom should be addressed representations concerning the proposed exclusion or cessation.”.

(4) Omit subsections (3) and (4).

(5) In subsection (5), omit “further”.

7. In section 99 (directions and guidance), omit “directions or”.

8. The reference to the 1989 Act in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999(18) is to be treated as a reference to that Act as amended by virtue of this Schedule.

## SCHEDULE 6

article 15

### REPEALS

Chapter	Short Title	Extent of repeal
1977 c.42	Rent Act 1977	In section 116(3), the words from “renovation grant” to “an HMO”.
1985 c.68	Housing Act 1985	Section 100(2). Section 244(3). In section 255(2), paragraph (b) and the word “or” immediately preceding that paragraph. In section 435(1), paragraph (d) and the word “or” immediately preceding that paragraph.
1988 c.9	Local Government Act 1988	In section 25(2)(f), the word “or” at the end of sub-paragraph (ii).
1989 c.42	Local Government and Housing Act 1989	Section 89(2). Section 90. Section 92(2).

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(18) S.I. 1999/672., to which there are amendments not relevant to this Order.

		<p>In section 93, in subsection (5), paragraph (b), the word “and” immediately preceding it and the words following it and, in subsection (6), the words “all or any of”.</p> <p>In section 95, subsections (3) and (4) and, in subsection (5), the word “further”.</p> <p>In section 99, the words “directions or”.</p> <p>Section 169(2)(c) and (d).</p>
<p>1996 c.53</p>	<p>Housing Grants, Construction and Regeneration Act 1996</p>	<p>In section 1, paragraphs (a) and (b) of subsection (1) (and the word “and” at the end of paragraph (b)) and subsections (2) to (5).</p> <p>Sections 4 to 18.</p> <p>In section 19(1), (2), (4) and (5), the words “disabled facilities” (in each place).</p> <p>In sections 20 to 22, the words “disabled facilities” (in each place).</p> <p>In section 23, in subsection (1), the words “disabled facilities”, subsection (2), and, in subsection (3), the words “or the purpose mentioned in subsection (2)”.</p> <p>In section 24, the words “disabled facilities” (in each place).</p> <p>Sections 25 to 28.</p> <p>In section 29, in subsection (3), the words “or house or other building”, in subsection (4), the words “Subject as follows,”, and subsections (5) and (6).</p> <p>In section 30, subsections (1) to (3), in subsection (4) the words “disabled facilities”, and in subsection (5) the words “(3) or”.</p> <p>Section 31(2).</p>

		<p>Section 32.</p> <p>In section 33, in subsection (2) the words “different types of grant, or for the same type of grant in”, subsection (3) and, in subsection (4), the words “, except as mentioned in subsection (3),”.</p> <p>In section 40, in subsection (1), the words “of that description”, subsection (3), in subsection (4), the words “disabled facilities”, and subsections (5) and (6).</p> <p>In section 41(1), the words “disabled facilities”.</p> <p>In section 43, in subsection (1), the words “of that description”, subsection (3), in subsection (4), the words “disabled facilities”, and subsections (5) and (6).</p> <p>In section 44, in subsection (2), paragraphs (a) and (b) and the word “and” at the end of paragraph (b).</p> <p>Sections 45 to 50.</p> <p>In section 52, in subsection (2)(a), the word “, house”, and subsection (3).</p> <p>Sections 53 and 54.</p> <p>In section 55, in subsection (1), the word “, house” (in each place), and subsection (2).</p> <p>Section 57(3).</p> <p>In section 58, in the definition of “common parts application”, the words “disabled facilities”, and the definition of “conversion application”.</p> <p>In section 59, the entries (both columns) relating to the following expressions-</p> <p>“certificate of future occupation (in relation to an application for an HMO grant)”</p> <p>“certificate of intended letting (in relation to an application for a renovation grant)”</p>
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		<p> “common parts grant”  “connected (with the owner of a dwelling)”  “conversion application”  “disabled facilities grant”  “elderly”  “exempt disposal”  “HMO grant”  “house in multiple occupation”  “improvement”  “landlord’s application  - in relation to a renovation grant  - in relation to a common parts grant”  “long tenancy”  “occupying tenant (in relation to an application for a common parts grant)”  “owner-occupation certificate (in relation to an application for a renovation grant)”  “participating landlord (in relation to a tenants’ application for a common parts grant)”  “partner”  “reasonable repair”  “registered social landlord”  “relevant disposal”  “renewal area”  “renovation grant”  “tenants’ application (in relation to a common parts grant)”. </p> <p> In section 59, in the entry relating to “common parts application (in relation to a disabled facilities grant)”, the words “disabled facilities”. </p> <p> In section 59, in the entry relating to “grant”, the words “(without more)”. </p> <p> In section 59, in the entry relating to “owner’s application”, the words “- in relation to a renovation grant”, “section 7(1) and (2)”, and “disabled facilities”. </p> <p> In section 59, in the entry relating to “owner’s certificate (in relation to an application for a disabled facilities grant)”, the words “disabled facilities”. </p> <p> In section 59, in the entry relating to “qualifying owner’s interest”, the words “- in </p>
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		<p>relation to an application for a renovation grant”, “ section 7(4)”, “disabled facilities”, and “ – in relation to an application for an HMO grant”, “section 25(3).</p> <p>In section 59, in the entry relating to “qualifying tenant”, the words “- in relation to an application for a renovation grant”, “section 7(5)”, and “disabled facilities”.</p> <p>In section 59, in the entry relating to “secure tenancy and secure tenant” the words “secure tenancy and”.</p> <p>In section 59, in the entry relating to “statutory tenancy and statutory tenant” the words “statutory tenancy and”.</p> <p>In section 59, in the entry relating to “tenant (and expressions relating to tenancies)”, the words “ – in the context of a tenant’s application for a renovation grant”, “section 7(6)”, “ – in the context of a certificate of intended letting”, “section 8(4)”, “ – in the context of an application for a common parts grant”, “section 14(2)” and “disabled facilities”.</p> <p>In section 59, in the entry relating to “tenant’s application”, the words “- in relation to a renovation grant”, “section 7(1) and (2)”, and “disabled facilities”.</p> <p>In section 59, in the entry relating to “tenant’s certificate”, the words “- for the purposes of an application for a renovation grant”, “section 9(2)”, and “disabled facilities”.</p> <p>In Part 1, Chapters 2 and 3.</p> <p>Section 93(2).</p> <p>In section 94, paragraph (a) and the word “or” at the end of that paragraph.</p> <p>Section 95(2), (4) and (5).</p>
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		<p>Section 96.</p> <p>Section 98(2).</p> <p>In section 101, the definitions of “elderly”, “house in multiple occupation”, “improvement”, “long tenancy” and “partner” and, in the definition of “owner”, the words “, and, in relation to a house in multiple occupation, has the same meaning as in Part XI of the Housing Act 1985”.</p> <p>Sections 131 to 140.</p> <p>In Schedule 1, paragraph 15(3) and (4).</p>
1997 c.50	Police Act 1997	Paragraph 90 of Schedule 9.
1998 c.38	Government of Wales Act 1998	Paragraph 16 of Schedule 15.
2001 c.16.	Criminal Justice and Police Act 2001	Paragraph 80 of Schedule 6.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order confers on local housing authorities in England and Wales a new power to improve living conditions in their area (article 3). The new power enables an authority to provide assistance to any person for—

- (a) the acquisition of living accommodation, where the authority wish to purchase a person’s home or as an alternative to adapting, improving or repairing it;
- (b) the adaptation or improvement of living accommodation (including by alteration, conversion or enlargement, and by the installation of things or injection of substances);
- (c) the repair of living accommodation;
- (d) the demolition of buildings comprising or including living accommodation;
- (e) the construction of replacement living accommodation to replace living accommodation that has been demolished.

Authorities are required to consider a person’s ability to meet a contribution or to repay the assistance, both before imposing a condition to that effect and before taking steps to enforce a

condition of that kind. They are also required to provide a written statement of the conditions to which assistance is subject, and to ensure that a person to whom assistance is given has received advice or information about any obligations to which he would be subject once assistance has been provided. They may take security, including a charge on property.

The new power is not exercisable until the authority has adopted and published a policy relating to their exercise of the power, and the power must be exercised in accordance with the policy (article 4(1)).

Where the new power is to be exercised in relation to a building, the prior consent of the owner is required (article 5). Other protective provisions require authorities to obtain the consent of the person to whom the assistance was provided before varying the specification of any assisted work, and before varying or revoking any condition to which the assistance is subject.

Authorities are empowered to require the provision of information and evidence for the purposes of, or in connection with, the new power (article 6).

Articles 7 and 8 provide for the making of contributions towards authorities' expenditure under the new power, and for the recovery of contributions.

Article 9 and Schedule 1 make amendments consequential on article 3.

Article 10 and Part 1 of Schedule 2 amend section 435 of the Housing Act 1985. Part 2 of that Schedule makes amendments consequential on the amendments in Part 1.

Article 11 and Schedule 3 amend Parts 1 and 4 of the Housing Grants, Construction and Regeneration Act 1996. Chapter 1 of Part 1 is retained only for the purposes of what was previously mandatory disabled facilities grant. The other purposes for which grant is payable under that Chapter, and the provisions of Chapters 2 and 3 of Part 1 relating to group repair schemes and home repair assistance, are subsumed in the new power.

Article 12 and Schedule 4 make consequential amendments to section 116 of the Rent Act 1977, sections 100, 244 and 255 of the Housing Act 1985 and section 169 of the Local Government and Housing Act 1989.

Article 13 amends section 93(5) and (6) of the Local Government and Housing Act 1989.

Article 14 and Schedule 5 amend Part 7 of the Local Government and Housing Act 1989. The general effect of the amendments is to remove restrictions relating to renewal areas.

Article 15 and Schedule 6 provide for the repeal of provisions.