

Private sector housing renewal

Reform of the Housing
Grants, Construction and
Regeneration Act 1996,
Local Government and
Housing Act 1989 and
Housing Act 1985

A consultation paper

housing

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Construction and Regeneration Act 1996,
Local Government and Housing Act 1989
and Housing Act 1985

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March 2001

Department of the Environment, Transport and the Regions
Eland House
Bressenden Place
London SW1E 5DU
Telephone 020 7944 3000
Internet service www.detr.gov.uk/

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CONSULTATION SUMMARY

Private Sector Housing Renewal Reforms Consultation

What is being consulted on?

This consultation paper sets out in detail the Government's proposals for reforming the legislation governing private sector housing renewal in England and Wales.

The reforms would remove many of the detailed provisions that govern the way local housing authorities carry out housing renewal, and replace them with a broad power to provide financial and other assistance for home repair and improvement. Further, we also propose to:

- bring authorities' powers to give grants, loans and other forms of financial assistance for home improvement together within the same legal framework;
- enable authorities to help disabled people meet their contributions towards the cost of adaptations;
- enable authorities to help people with the cost of buying another property where this is a better option than improving or adapting their own home.

Authorities would also have the power to perform means-tests and to set conditions for assistance, in order to help target resources effectively.

We are also inviting your views on the wider regulatory reform issues, such as the potential costs or savings that may arise as a result of these reforms.

Reference: Chapter 8 and 9.

Why are these changes needed?

By removing the restrictions governing authorities' activity, the reforms aim to provide:

- More discretion for authorities to address the specific needs of their area;
- More opportunity to target help effectively on those most at risk from poor quality housing;
- More effective use of resources, allowing more people to be helped than at present;
- Less dependency on grants, and better reinforcement of homeowners' responsibilities towards their properties;

- More choice for homeowners and disabled people, e.g. between a grant or a loan, or between help with improvements or help with a move;
- Better tools to tackle obsolete and surplus housing as a result of more scope for providing more help with moving house;
- More coherent legislation, leading to more consistent service delivery by authorities; and
- More consistency with wider Government objectives, including those of Modernising Government.

Reference: Chapter 10.

Who will these proposals affect?

The proposed changes will affect:

- Local housing authorities involved in the delivery of private sector housing renewal policy, and
- Disabled people and people in poor condition housing in all tenures.

Reference: Chapter 10, 11 and 12.

How will these proposals be taken forward?

We intend that the proposed changes to legislation are made through a Regulatory Reform Order. Subject to the enactment of the Regulatory Reform Bill during the current session of Parliament and to the responses to this consultation paper, we would aim to lay the proposal before Parliament at the earliest opportunity.

Reference: Chapter 13.

Consultation

This consultation is being made in accordance with the requirements of the Regulatory Reform Bill. All responses to this consultation process should be received by 29 June 2001.

Reference: Chapter 14.

CHAPTER 1

Introduction

- 1.1 This consultation paper sets out in detail the Government's proposals for reforming the legislation governing private sector housing renewal in England and Wales. These build on earlier proposals contained in the Housing Green Paper, published in April 2000¹, which are attached at Annex A. Our proposals were set out in broad terms in a recent policy statement, *Quality and Choice: A decent home for all – the way forward for housing*, published in December 2000².
- 1.2 The reforms would remove many of the detailed provisions that govern the way local housing authorities (described as "authorities" in this consultation paper) carry out housing renewal. We propose to replace them with a broad power to provide financial and other assistance for home repair and improvement, which would be subject to only limited constraints. Our proposals go further than the original Green Paper proposals in a number of respects, for example by allowing authorities more freedom to offer help with moving house as an alternative to home improvement.
- 1.3 We propose to introduce the reforms by means of an order under the Regulatory Reform Act, subject to Parliament's approval of the Bill that was introduced in the House of Lords on 8 December 2000³. This consultation is being conducted in accordance with the provisions of clause 5 of the Bill. In particular, we intend it to satisfy the requirements of clause 5(1), as mentioned in clause 5(4). If it is not possible to use this route to introduce the reforms, we will consider the use of other legislation and would use this consultation to inform that process instead. Views are invited on all aspects of the consultation paper, and a number of specific questions are set out at the end of the document.

1 The full text of the Housing Green Paper can be found on the DETR website at <http://www.housing.detr.gov.uk/information/consult/homes/green/index.htm>

2 The Housing Policy Statement can be found on the DETR website at <http://www.housing.detr.gov.uk/information/index18.htm>

3 The Regulatory Reform Bill can be found on the Cabinet Office website at www.cabinet-office.gov.uk/regulation/bill/index.htm

CHAPTER 2

The Regulatory Reform Bill process

2.1 Clauses 1 to 8 of the Regulatory Reform Bill are intended to replace sections 1 to 4 of the Deregulation and Contracting Out Act 1994, which contains an order-making power to remove or reduce regulatory burdens imposed on businesses and others by primary legislation. The Bill will, if enacted, extend the scope of the order-making power in a number of ways. An order under the new power (a regulatory reform order) would be capable of:

- removing or reducing burdens from a wider range of activities and bodies, including local authorities;
- making and re-enacting statutory provision to replace existing provisions;
- imposing additional burdens where these are in the public interest; and
- removing inconsistencies and anomalies in legislation.

The Bill, if enacted, could only be used to amend legislation that has not been changed significantly for at least two years.

2.2 Like orders under the Deregulation and Contracting Out Act 1994, regulatory reform orders may not be used to remove any necessary protection from individuals or organisations. The Regulatory Reform Bill contains an additional requirement that orders must not prevent anyone from exercising an existing right or freedom that they might reasonably expect to exercise. Where an order imposes a burden, the Bill contains requirements that these must be proportionate and strike a fair balance between the public interest and the interest of those who are burdened.

2.3 The Bill contains a requirement for Departments to consult widely on regulatory reform proposals, and includes special provision to allow consultation to be carried out before the Bill is passed. In addition, the Bill requires the consent of the National Assembly for Wales (“the Assembly”) for reforms that extend to Wales and provides for detailed scrutiny by Parliament of the reform proposals. This consultation paper follows the format recommended by the Cabinet Office for regulatory reform consultations.

CHAPTER 3

The present policy framework

- 3.1 Poor quality housing can have an impact on the health of the occupants and on the quality of life in the area. We are committed to improving housing quality in all tenures, including the owner-occupied sector. Nonetheless, it is only right that the responsibility for maintaining privately owned homes, which for many people is their most valuable asset, should rest first and foremost with the owner.
- 3.2 It is not our intention to provide public money to tackle all the problems of poor condition housing in the private sector, as in many cases this would displace the investment that homeowners would otherwise have made themselves. Our broad aim is to provide better opportunities for people to repair their homes from their own resources where they are able to do so, and to target help through grants and other financial assistance on those who are trapped in poor quality housing that they cannot afford to repair.
- 3.3 The Housing Green Paper set out our policy on improving housing quality in the owner-occupied sector. One important part of our policy is to make sure that homeowners are able to recognise and fulfil their responsibilities. We are taking steps, for example through the Quality Mark scheme which identifies responsible builders, to make it easier and more attractive for them to do so.
- 3.4 However, we recognise that not all homeowners can afford to keep their homes in good repair. This can be a particular problem for older people, who are often most at risk from poor housing, and in areas with high levels of deprivation. Help is available, from local authorities and other agencies, such as home improvement agencies (HIAs), for people trapped in poor condition housing that they cannot afford to repair. English and Welsh local authorities invest nearly £400 million on improving conditions for around 100,000 households each year and also support HIAs to provide advice and assistance for vulnerable groups. Tackling poor conditions in privately owned housing is an important part of each authority's strategic role. For many authorities that have transferred their housing stock to another landlord and no longer have a direct role in providing housing, it is one of their main responsibilities. This role is likely to become more important each year as the trend towards transfer increases.

CHAPTER 4

The present legislative framework

- 4.1 Authorities have a range of powers to give grants or loans, or provide labour and materials, to help homeowners, private sector landlords and tenants to repair or renovate their homes.
- 4.2 Their main powers to give grants for home improvement are contained in the Housing Grants, Construction and Regeneration Act 1996 (“the 1996 Act”). In addition to mandatory disabled facilities grants (which are outside the scope of these reform proposals) these grant-giving powers cover:
- renovation grants;
 - common parts grants;
 - discretionary disabled facilities grants;
 - HMO (Houses in Multiple Occupation) grants;
 - home repair assistance;
 - group repair; and
 - relocation grants.

The 1996 Act replaced an earlier mandatory grant regime introduced in 1989 and contains many of the provisions dating from the earlier Act.

- 4.3 As well as their powers under the 1996 Act, authorities have powers under two other Acts to give financial assistance for home improvements. Under Part VII of the Local Government and Housing Act 1989 (“the 1989 Act”), they can declare and carry out renovation activity in renewal areas. They also have powers under Part XIV of the Housing Act 1985 (“the 1985 Act”) to make loans and to provide help towards the cost of obtaining a mortgage. Authorities’ powers under the 1985 Act are not confined to helping to improve people’s existing homes, and may be used to give assistance towards the purchase of housing as well. The 1985 Act powers also apply to local authorities without housing responsibilities (which are not affected by these proposals).
- 4.4 The main housing renewal grants given by authorities (set out in Part I of the 1996 Act), which are discretionary, are each designed for a specific purpose. Renovation grants are designed to help homeowners and tenants to make their homes fit for habitation, put them in reasonable repair or carry out other specific improvements. Common parts grants and HMO grants serve a similar purpose, but are targeted on the shared parts of buildings and on houses in multiple occupation. Discretionary disabled facilities grants may be given for

adaptations to make homes suitable for the accommodation, welfare or employment of a disabled person, or to pay for adaptations above the limit for the mandatory grant.

4.5 The main grants are subject to a number of detailed conditions, which govern, among other things:

- the form of application;
- the eligibility criteria for the grants, including ownership and tenancy conditions and (for renovation grants) a prior residency requirement;
- other conditions on approving grant, such as a requirement for the property to be fit for habitation on completion of the works;
- the manner in which grant is calculated (which is done by a test of the applicant's resources);
- the maximum grant that may be paid in any case;
- the procedure for notifying applicants of the authority's decision;
- the manner in which grant may be paid;
- the circumstances in which an applicant ceases to be entitled to a grant; and
- the circumstances in which grant must be repaid.

Many of the requirements are set out on the face of the Act itself, although it also contains over forty separate powers to make secondary legislation. Secondary legislation under these powers sets out in detail certain requirements of the Act such as the test of resources, and provides some degree of flexibility in areas such as grant conditions and repayment. Annex B lists the secondary legislation and other documents issued under these powers and under those mentioned in paragraphs 4.6 to 4.10 below. Through the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), the powers of the Secretary of State to make secondary legislation and issue documents have, as respects Wales, been transferred to the Assembly.

4.6 Group repair (also under Part I of the 1996 Act) enables authorities to carry out repairs to several adjoining properties at once. It is limited to external or structural repairs. Group repair is subject to:

- certain conditions under which buildings qualify for group repair (for example, their state of repair);
- a requirement to seek the Secretary of State's approval or that of the Assembly to carry out group repair;
- conditions governing eligibility to participate in a scheme (these mainly relate to their interest in the property);
- a requirement to seek participants' consent and to notify them when a scheme has finished; and

- limits on the amount authorities may require assisted participants to contribute (the legislation is less prescriptive than for renovation grants).

The requirements governing group repair are set out mainly in secondary legislation, approvals and guidance.

- 4.7 Home repair assistance (also under Part I of the 1996 Act) allows authorities to provide assistance for smaller repairs and improvements without having to follow the more detailed procedures required for the other grants. The grant is targeted mainly on elderly or disabled people, and on those in receipt of income-related benefits. The Secretary of State and Assembly have a range of powers to set conditions on the use of home repair assistance, which include the power to set a maximum grant limit (currently £2,000 per application or £4,000 over a three year period) and to prescribe an application form.
- 4.8 Relocation grants (under Part IV of the 1996 Act) are designed to help people affected by slum clearance to re-establish themselves in a nearby area. The grants are intended to bridge the “affordability gap” between the value of the property being cleared and the cost of buying a new home. The grants are subject to similar conditions (including a test of resources) to those that apply to the main grants, and contain the additional requirement that the authority must make public whether it intends to pay relocation grants before it declares a clearance area.
- 4.9 Authorities have powers (under Part VII of the 1989 Act) to declare and carry out works in renewal areas. As well as providing a broad power to give financial assistance within the renewal area, the 1989 Act gives authorities a range of other powers, including the power to acquire land by compulsion. Renewal areas are subject to a number of controls, some of which have recently been relaxed. These controls include restrictions on the size, composition and characteristics of the area, and a requirement for them to last ten years. In addition, authorities must follow certain procedures, including consultation, which were introduced to safeguard the interests of local residents.
- 4.10 Local authorities’ powers to give loans for home improvement and for a number of other housing-related purposes are set out in Part XIV of the 1985 Act. The legislation governing loans is less closely prescribed than that for grants. The loan must be secured by a mortgage, the terms of which must be set out in the mortgage deed. The authority is also required to charge a set rate of interest, which must be repaid at regular instalments. (This provision was introduced as part of the Right to Buy legislation to regulate the provision of local authority mortgages, which were then a statutory entitlement.) In addition, the authority must also ensure that the property is fit for habitation⁴ once the works are complete. Authorities also have the power to give mortgage indemnities and to give financial assistance towards the cost of obtaining a mortgage, which are subject to fewer restrictions.
- 4.11 The Government influences local authorities’ housing renewal programmes in two other important ways. Funding in England is allocated partly according to the quality of each authority’s housing strategy, and will increasingly be linked to the achievement of local Public Service Agreement targets. Local authority housing renewal programmes are also subject to the Best Value regime⁵, which assesses each authority’s performance across all areas of its responsibility against certain key indicators.

4 Under Section 604 of the Housing Act 1985. We propose, as a separate exercise, to replace the legislation covering housing fitness with a new housing health and safety rating system.

5 Under Part I of the Local Government Act 1999

CHAPTER 5

The nature of the burden

- 5.1 We believe that the present legislation places a number of unnecessary restrictions on authorities' freedom, which has limited their ability to provide effective help to those who need it. The highly prescriptive nature of the legislation has led many authorities to take a narrow and rigid approach to housing renewal, which has not always contributed to their strategic objective of ensuring that people are adequately housed.
- 5.2 The strictest and most detailed controls govern the **power to give assistance through grant**. Most of the provisions in the present legislation date from before 1996, when the main housing renewal grants were mandatory. Under the mandatory regime, tight controls on eligibility and grant use were needed to ensure that public resources were targeted and used effectively. Since 1996, the grants have been given at each authority's discretion, and we believe that most of the existing controls are no longer relevant to discretionary grants. The rules governing grants are also inconsistent with the legislation governing loans, which contains far fewer restrictions.
- 5.3 Rather than ensuring an effective use of existing resources, the rules governing grants can limit authorities' ability to address local needs, and can often prevent resources from being used effectively. Where large-scale or costly works are involved, authorities often have no option but to give out large grants, which can tie up resources and prevent help from being given to other, equally deserving people. Where they wish to set additional conditions, authorities must first obtain the consent of the Secretary of State or Assembly, which is a time-consuming process. Since the introduction of discretionary grants in 1996, many authorities have made increasing use of home repair assistance, which is subject to fewer controls, and less use of the other main grants. Because of the controls on the main grants, many authorities are using home repair assistance for small scale but urgent repairs (such as the replacement of old electric cables). While justifiable, this was not the main purpose for which the grant was intended – which was to help older and disabled people with minor but essential repairs, improvements or adaptations.
- 5.4 In addition, the widespread use of grants can sometimes have a perverse effect. For example, in some areas where larger grants are given as part of an area-based renewal programme, these can discourage homeowners with resources of their own from carrying out the repairs themselves.
- 5.5 The restrictions on the use of **home improvement loans** are far fewer, but nonetheless prevent authorities from being able to use them effectively. As the rate and terms of interest under which they give loans are linked to those for commercial loans, authorities cannot offer preferential loans for home repair, except in very limited circumstances.
- 5.6 In particular, the present regime has prevented authorities from helping to develop “**equity release**” **schemes**, in which capital in the home rather than income is used to repay a loan. Equity release loans can often have a number of advantages over conventional loans. By avoiding the need for the borrower to make repayments from income, they provide access to capital without reducing people's living standards.

- 5.7 Some forms of commercial equity release scheme, such as home income plans, gained a poor reputation in the 1980s, partly as a result of a number of high-profile repossessions and partly because of their effect on borrowers' benefit entitlements. However, many of the commercial products now being developed for home improvement have been designed specifically to avoid those risks. For example, some schemes remove the risk of default and repossession by deferring all repayments until the home is sold. Moreover, many home improvement loans are in the form of a lump sum, which does not affect people's entitlements to benefit.
- 5.8 We believe that equity release loans could help bring affordable repairs within reach of a much wider range of homeowners than at present, particularly in areas where property values are high. Equity release could also be a valuable tool for helping older homeowners, many of whom have little or no outstanding mortgages.
- 5.9 The market for home improvement loans for lower-income homeowners, and for equity release schemes in particular, has been slow to develop, mainly because of the high initial cost involved in setting up the loans. These high set-up costs have tended to make lower-value loans either uneconomic for the lender or too expensive for the borrower. We believe that there is an important role for authorities to play in helping people to obtain affordable home improvement loans, either by offering affordable loans themselves or by helping to bring down the cost of loans provided by another body. A number of not-for-profit bodies⁶ have recently been established with the aim of helping people on low incomes to gain access to affordable home improvement loans. Greater local authority support for such schemes could help them to become more widely available.
- 5.10 Under the present legislation, local authorities have few opportunities to **give financial help with the purchase of another property** where this is a better option than improving or adapting someone's existing home. Although authorities are able to give loans for house purchase they are tied, as with home improvement loans, to charging commercial rates of interest. Authorities may give relocation grants to help people whose homes are subject to a compulsory purchase order to move out of slum clearance areas. However, they are currently unable to help homeowners whose homes are purchased outside slum clearance areas, or to offer disabled people help with buying another property where their existing home cannot be adapted. Where they give relocation grants, they have no discretion over how much grant to give. This can be a problem in some cases, for example where there is negative equity in the property.
- 5.11 Partly as a result of these constraints, and partly because of the high cost of the grants, authorities make only limited use of their powers to give relocation grants. Instead, they are often forced down the route of investing repeatedly in the repair of obsolete or unwanted housing where a selected clearance strategy, involving a mixture of voluntary and compulsory purchase, would make more sense in the longer term.

⁶ Examples include the Aston Reinvestment Trust, based in Birmingham, and the Home Improvement Trust, based in Nottingham.

- 5.12 A number of the powers available in **renewal areas** allow authorities to use powers of compulsion (compulsory purchase powers, powers to extinguish rights of way and powers of entry with penalties for obstruction). For this reason, some of the existing rules are necessary safeguards to protect the interest and rights of those affected. However, other rules, such as the criteria for declaring a renewal area, ensure that they are targeted on the most deprived areas and on those large enough to benefit from an area-based approach. We believe that these criteria, which prevent authorities from using their own judgement to decide what is a deprived community, can often be counter-productive. In particular, they can prevent authorities from tackling equally pressing problems in smaller communities, such as former mining villages, and from taking early action to prevent an area showing early symptoms of decline from deteriorating rapidly.

CHAPTER 6

The Housing Green Paper proposals

Grants to individual homeowners

- 6.1 The Housing Green Paper proposed a new approach, to allow authorities to use their resources more effectively to provide help to a wider range of homeowners. Instead of using detailed regulation to govern the manner in which assistance is given, we proposed to use a combination of guidance, local public service agreements and Best Value to set key principles and targets, monitor activity and reward good performance.
- 6.2 The Green Paper proposed a number of options:
- Reforming authorities' grant-giving powers to enable them to determine where, when and how to give grants for home improvement and what conditions they attach;
 - Broadening authorities' powers to give loans, to enable them to give preferential or interest-free home improvement loans (including "equity release" loans); and
 - Giving authorities new powers to make payments to third parties, to help lever in private finance for home improvement.
- 6.3 The Green Paper also proposed a number of interim measures, which are being taken forward separately through changes to secondary legislation.

Area-based housing renewal

- 6.4 As well as proposing a number of interim changes to the secondary legislation governing renewal areas and group repair (which have now been made), the Green Paper sought views on whether more fundamental reform was needed. Options included allowing group repair to be used to replace obsolete housing and incorporating group repair and renewal areas into a more general power to carry out housing renewal. The Green Paper also invited views on whether to allow authorities more freedom over the use of relocation grants.

CHAPTER 7

Responses to the Green Paper

- 7.1 The Department commissioned independent consultants to analyse responses to the Housing Green Paper. (A summary of the results were published with the housing policy statement *Quality and Choice* in December 2000.) The majority (96%) of respondents who commented on this aspect of the Green Paper supported the proposal to give authorities more freedom to give grants for home improvement, and many favoured a broad enabling power over keeping the existing set of grants. Support came from a wide range of backgrounds in England, Wales and other parts of the UK, including academics, financial institutions, registered social landlords, local authorities and their representative bodies. Some concerns were expressed about the need for guidance to ensure that money was spent wisely, and for the need to allow authorities to waive the requirement to repay grant. (We provided greater local flexibility over the requirement to repay grant through measures introduced in December⁷.)
- 7.2 Most (88%) of the respondents who commented on the proposal to provide greater freedom over loans supported the proposal. Some believed that this would help reinforce landlords' and homeowners' responsibilities, and others believed that in some areas the schemes could become partly self-financing. A number of financial institutions believed that the reforms would provide an opportunity for authorities and lenders to work in partnership to provide affordable home improvement loans. Some respondents, while supporting the proposals, emphasised the need for guidance to ensure that spending reflected the authority's strategic aims rather than local political considerations and to ensure that the interest of local homeowners was protected. Only a few respondents believed that they would have no use for the new power.
- 7.3 Fewer respondents commented on the proposal to enable authorities to give assistance through third parties (along the lines discussed in paragraph 5.9), but only one actively opposed it. A number of respondents believed that authorities had a role to play in developing equity release schemes, provided these did not put homeowners at risk of losing their homes.
- 7.4 The majority (97%) of respondents who commented on our proposals for area renewal supported the proposal to broaden the definition of renewal areas. Many respondents commented that this would be consistent with the aim of developing sustainable communities and of providing support across all housing tenures. A number of local authority respondents asked for more freedom than the Green Paper proposed, particularly over the renewal area timetable, the use of relocation grants, and over the rules for group repair. The reforms we introduced to the conditions for declaring renewal areas and group repair schemes⁸ have also been well received.

⁷ These were announced in paragraph 2.17 of the housing policy statement, *Quality and Choice: a decent home for all – the way forward for housing*

⁸ These were also announced in paragraph 2.17 of the housing policy statement, *Quality and Choice: a decent home for all – the way forward for housing*.

CHAPTER 8

Our revised proposals

- 8.1 Our proposals for reforming the legislation on private sector renewal, which are explained in more detail in the section below, build on those set out in the Housing Green Paper in April. In the light of the positive response to the Green Paper, we intend to proceed with all aspects of our original proposals. In general, where the Green Paper sought views on a range of options, we plan to proceed with the one that provides the maximum local flexibility.
- 8.2 We intend to go further than the Green Paper in a number of respects.
- i. We believe that it is more consistent to bring authorities' powers to give grants, loans and other forms of financial assistance for home improvement together within the same legal framework, governed by the same rules.
 - ii. We believe that authorities should be able to provide additional help to disabled people to meet their contributions towards the cost of adaptations if they wish to do so.
 - iii. We believe that authorities should also be able to offer people help with the cost of buying another property as an alternative to improving or adapting their own home.
 - iv. We believe that, to underline authorities' strategic responsibilities, the power should be available to help people in all housing tenures. This additional flexibility could be particularly useful in providing help with housing adaptations, and in carrying out housing renewal in mixed-tenure areas.
 - v. To ensure that the new freedoms are not abused, we believe that authorities should follow a published policy when they give assistance under their new power. We will be issuing guidance setting out the principles on which private sector housing renewal will be based.
- 8.3 The reforms are primarily concerned with removing or reducing burdens, and we believe that they can be best achieved through an Order under the proposed Regulatory Reform Act.

CHAPTER 9

The proposals in detail

9.1 The proposals involve the repeal of provisions relating to the following:

- renovation grants;
- common parts grants;
- HMO grants;
- the discretionary elements of disabled facilities grant (i.e. the power to pay grant for non-essential adaptations and the power to pay grant above the threshold for the mandatory grant);
- group repair;
- home repair assistance;
- relocation grants; and
- the power to assist in carrying out works in renewal areas.

and their replacement with a new, general power to give financial assistance for home repair, improvement and adaptation. Apart from two new provisions described in paragraph 9.9 below, the new general power would not be restricted in any way.

9.2 The new power would enable authorities to help people in all tenures, including landlords, owner-occupiers and tenants. Help would be available both to individuals (including groups of individuals, as in group repair schemes) and to bodies (such as landlord companies).

9.3 Authorities would be able to give assistance in the following ways:

- a grant;
- a loan;
- a loan guarantee or indemnity;
- by providing materials or labour (authorities already have the power to provide advice and other services under s169 of the 1989 Act);
- by incurring expenditure in other ways (such as paying a contractor to carry out work).

or any combination of these.

- 9.4 Authorities would be able either to provide assistance themselves or through another agency, such as a registered social landlord, charity or home improvement agency. In addition, they would be able to provide financial help, either direct to the borrower or lender or via an agency, to enable people obtain a loan provided by another body, such as a commercial lender, at an affordable rate.
- 9.5 To ensure that the assistance they give is targeted effectively, authorities would have the power to carry out means testing and to charge for any labour or materials they provide, should they wish to do so. They would also be able to set the conditions under which any financial assistance should be repaid and the period over which those conditions should apply. Where they chose to give a loan or to attach conditions to a grant or loan, authorities would also have the power to waive any requirement to repay it or to reduce the amount they require to be repaid.
- 9.6 In place of the limited powers currently available through relocation grants, we propose to allow authorities to use their new power to help people to buy another property in two broadly defined sets of circumstances. The first is in cases where the authority and owner agree that moving house makes more sense than improving or adapting someone's existing home, or where they wish to offer the applicant a choice. The second is where they make a compulsory or voluntary purchase of someone's home, for example as part of a renewal or clearance strategy. (In the latter case, assistance given under the proposed power would be on top of any other compensation they are required to pay.) The power would not affect any existing entitlement, for example to a disabled facilities grant or to compensation available under the compulsory purchase rules. The 1985 Act would continue to apply to loans made for other purposes, for example to first-time buyers, and to loans made by local authorities without housing responsibilities.
- 9.7 As mentioned above, the entitlement to a disabled facilities grant would remain largely unchanged. There is one exception, outlined in the paragraph below, relating to owners of park homes. All disabled people who currently qualify for the mandatory grant would continue to do so. However, the reforms would enable authorities to help disabled people in three new ways. First, they would be able to offer disabled people a choice between the mandatory grant and other options, such as a loan that does not involve a means test. Second, they would be able to offer disabled people whose homes cannot be adapted, and who would not qualify for a disabled facilities grant, help towards buying a more suitable property. Third, they would be able offer a grant or preferential loan to top up the mandatory grant, to help applicants who are having difficulty in meeting the cost of their contribution.
- 9.8 The change proposed for owners of park homes would make them eligible for all the grants payable under Chapter I of Part I of the 1996 Act, including disabled facilities grants. At present park homes are not considered to be "dwellings" and many park home owners would be unable to meet the requirement (which currently applies to all grants except home repair assistance) that they must also own the land on which the home is sited. The new power would be framed to address these problems. The changes would put them on the same footing as other homeowners and tenants, and would thus remove a number of inconsistencies within the existing rules.

9.9 The new power would be subject to two new requirements:

- i. Authorities would be required to have regard to guidance. This will set out certain overarching principles such as the need to:
 - be fair;
 - give priority to the most vulnerable households, in particular to disabled and older households;
 - ensure that applicants for loans are properly advised; and
 - take realistic account of people’s ability to contribute, including to equity release loans.

The guidance will also highlight the need to obtain best value from the resources available, and to provide advice on tackling fraud. It will also reflect the conclusions that emerge from the work of the Performance and Innovation Unit (PIU) on modernising Government loans⁹.

- ii. Authorities would also be required to give assistance under their new power in accordance with a published policy (on which they would be expected to consult service users under their Best Value responsibilities). We would advise in guidance what matters they need to cover in their policy, such as:
 - how their policy links in with their wider housing strategy, linking to health and social care strategies for vulnerable groups and also to wider planning and regeneration strategies;
 - how much assistance is available, and in what form;
 - who is eligible for assistance, and in what circumstances;
 - the form and process for applying for assistance;
 - the circumstances in which a grant or loan must be repaid; and
 - the advice, including financial advice, that is available to help people to access grants and loans.

9.10 The new general power would remove the need for a number of the powers available specifically within renewal areas, such as the power to provide assistance through grants and loans. However, renewal areas also contain powers of compulsion (see paragraph 5.12 above), and contain a number of safeguards to ensure that they are used properly for the benefit of local residents. For that reason, we intend to keep the renewal area provisions separate from the general power and to retain the following safeguards:

- the requirement to carry out a social and economic assessment before declaring a renewal area;

⁹ The PIU project was established by the Prime Minister 12 December 2000.

- the requirement to consult local residents before declaring a renewal area and to publicise its declaration; and
- the requirement to keep local residents informed during the renewal area process and to notify them of any change to the original declaration.

We propose to set out the broad principles of these in primary legislation, and to provide advice on matters of detail, such as the content of the renewal area assessment, through guidance.

9.11 We propose to remove the following restrictions:

- the exclusion from renewal areas of housing action trusts and of areas not adjoining one another;
- the requirement for a renewal area to last ten years;
- the requirement for an area to meet specified conditions to qualify for renewal area status; and
- the requirement to send the Secretary of State or Assembly a copy of the resolution and information about the renewal area, and to notify him of any decision to change the original declaration or wind up a renewal area.

CHAPTER 10

Benefits of the proposals

- 10.1 The benefits of the proposals have already been outlined in the Housing Green Paper and are touched on in earlier sections of this consultation paper. The main benefits are:
- i. **More local discretion to meet local needs.** We believe that local authorities are best placed to judge what works best in their area and need the freedom to respond quickly and effectively to local problems. Not all approaches will work in all parts of the country, and it would be counter-productive to prescribe at a national level the manner in which authorities should provide assistance. To develop effective, targeted, renewal strategies, we believe that authorities need to be able to draw from the full range of policy tools available to them. The additional freedom provided by the reforms could be particularly valuable in tackling the problems associated with low demand for housing – where, for example, an authority wants to help people with negative equity to move out of housing it wants to clear.
 - ii. **More effective use of resources.** By having the freedom to set their own grant limits and to make greater use of loans instead of grants, authorities would be able to help more people than they are able to help under the present rules. In many parts of the country, authorities could make their own resources go further by using them to lever in commercial loans. In particular, “equity release” schemes (described in paragraphs 5.6 to 5.8) could bring much-needed repairs within the reach of many more low-income households, at little risk to their standard of living. Income from loan repayments could be recycled to finance new loans, and schemes could become partly self-financing in some areas. Authorities would be well placed to protect borrowers’ interests by providing access to high-quality independent financial advice and by providing a seal of approval for the best commercial products. The financial effects of the proposals are discussed in Chapter 12 below.
 - iii. **Better reinforcement of landlords’ and homeowners’ responsibilities.** By enabling authorities to make more use of alternatives to grant, such as loans and loan guarantees, the reforms would help underline landlords’ and homeowners’ responsibilities for maintaining their own properties. In areas where equity release schemes were available, homeowners would be able to release some of the capital within their home to protect the rest of their investment. By being able to attach conditions to the help they gave, authorities could safeguard their own investments (e.g. by requiring a landlord to carry out routine maintenance), and prevent speculative applications (e.g. by requiring those who receive grants to repay them if they move within a certain period). Authorities would also be able to waive the conditions they set. As is currently the case, grants and loan conditions could be used to achieve other housing objectives (e.g. to bring an empty property back into use for letting or in return for the right to nominate tenants to a property owned by a private landlord).

- iv. **More choice for homeowners and disabled people.** The proposals would allow authorities to offer people a wider range of choices, for example between a means-tested grant and a preferential loan or between help towards improving their existing home and help towards buying a more suitable property. Disabled people in particular could benefit from the wider range of options, outlined in paragraph 9.7, that authorities would be able to give.
- v. **Better tools to tackle obsolete and surplus housing.** Used in conjunction with a voluntary purchase strategy or in a renewal area to supplement the compensation available for compulsory purchase, the power to provide help with moving house could make it easier for authorities to remove obsolete or surplus private sector housing in areas of low housing demand. In the longer term, this could be far more effective in some areas than repeated investment in housing that does not have a long-term future.
- vi. **More consistent service delivery.** By placing the legislation on grants and loans on the same footing, the reforms would make it easier for authorities to use them together as part of a co-ordinated private sector renewal strategy. By shifting from a narrow focus on giving grants to homeowners for repairs and improvements to a broader one of improving housing conditions in all tenures, the reforms would also help align authorities' private sector housing policies with their strategic objective of offering people the opportunity of a decent home.
- vii. **More consistency with other Government objectives.** The reforms are consistent with the principles of Modernising Government, and with our wider policy of giving authorities greater control over the means of delivering their strategic objectives. They should allow quicker, more responsive, strategies, and would mean fewer, less bureaucratic, controls on individual authorities.

CHAPTER 11

Impact on necessary protections and freedoms

- 11.1 As the grants and loans we propose to replace are currently given at each authority's discretion, we believe that our reform proposals would not prevent anyone from exercising an existing right or freedom. For a similar reason, we believe that replacing the various grant- and loan-giving powers available under the 1996 and 1985 Acts with a general power would not itself reduce the protection currently available to any individual or organisation. We have set out in paragraphs 9.10 and 9.11 the provisions we propose to retain in renewal areas, to safeguard the interest of local residents.
- 11.2 Nonetheless, there are a number of requirements in the 1996 and 1985 Acts, relating to the procedures an authority must follow and the conditions it may attach, that could be considered to offer protection to people who receive a grant or loan. These include:
- the requirement, under section 35(1) of the 1996 Act, for a grant to be paid where an application is approved;
 - restrictions, under section 44(4) of the 1996 Act, on the conditions an authority may impose requiring a grant to be repaid;
 - certain exemptions, under section 54 of the 1996 Act, from the requirement to repay grant when a property is disposed of within the grant condition period;
 - the requirement, under sections 65 and 68 of the 1996 Act, for authorities to obtain the consent of participants in a group repair scheme before starting work; and
 - the requirement, under section 138 of the 1996 Act, for any charge placed by a lender on a property being purchased with the help of a relocation grant to take precedence over the one placed by the authority giving the grant;
 - the requirement, under section 436 of the 1985 Act, for the terms of a loan to be set out in the mortgage deed.

- 11.3 We would welcome views on which, if any, of these requirements it would be necessary to retain. As most of them currently apply only to grants and not to loans, it could be unnecessarily burdensome to apply them to all aspects of the proposed new power and inconsistent to apply them to only some. On the other hand, local authorities are under a general duty to act reasonably and fairly, and it may be sufficient to rely on this to provide protection to those they help under their new power¹⁰.
- 11.4 We will consider whether we need to retain these and other provisions in the legislation, or whether they can be better addressed through guidance, in the light of the responses we receive to this consultation paper and the consideration by Parliament and the Assembly of our reform proposals. In any case, we would advise authorities in guidance to ensure that any grant conditions are proportionate and fair, and that those who take out loans are properly advised and are exposed to the minimum amount of risk.

¹⁰ The same principles apply to help given under section 2 of the Local Government Act 2000, which includes a wide-ranging power to provide financial assistance and enter into agreements that is subject to very few restrictions.

CHAPTER 12

Cost and savings

- 12.1 Overall, we believe that the reforms will provide the opportunity for public resources to go further. The precise effect of the reforms will depend mainly on the response of individual authorities, which would be able to choose between making full use of their new freedoms or continuing with existing arrangements. As now, authorities would retain the discretion to set their own budgets for their private sector renewal programmes within their broader financial allocation.

Cost and savings to local authorities

- 12.2 While the reforms are not intended to produce cost savings, they would allow authorities to make better use of their existing resources and so provide help to more low-income households.
- 12.3 This will depend on, among other things, individual authorities' willingness to be innovative, the willingness of homeowners and other households to take on loans, and the condition of the local housing market (particularly property values, which influence the levels of available equity). Where the authority's resources can be used to help someone obtain a commercial loan, this is likely to be more cost-effective than by giving a grant or a loan. One home improvement agency, which has helped to pilot the use of local authority grant to lever in commercial loans for home improvement, has suggested that a grant used in this way could help secure a loan of over ten times the size.
- 12.4 If an authority chose to administer loans direct, this could lead to a slight increase in its administrative budget, although the savings to their grant programmes resulting from a less bureaucratic regime should more than offset this.

Cost and savings to homeowners and other householders

- 12.5 The reforms would increase the costs to people who become ineligible for a renovation grant as a result of changes to local authority policies. Instead, they could be helped to afford repairs by a loan or a smaller grant, or by help towards obtaining a commercial loan. Where they can afford to do so, they may be expected to put equity in their home towards the cost of the improvements where affordable loans are available and proper advice is provided.
- 12.6 On the other hand, other people would benefit from more widespread access to a grant or loan as a result of the greater opportunities available to authorities to use their resources cost-effectively and to target those who are most at risk from poor housing, and would save money on repairs. In particular, disabled people could benefit from authorities' new powers to provide financial support towards meeting their contributions towards the cost of adaptations.

Cost and savings to business

- 12.7 The proposals would not impose any costs on businesses. However, the more widespread availability of local authority financial assistance could help overcome some of the barriers that have tended to prevent lenders from entering the market for affordable smaller loans. It may also help to expand the market for smaller renovation works, which could benefit local builders.

CHAPTER 13

Implementation and next steps

- 13.1 Subject to the enactment of the Regulatory Reform Bill during the current session of Parliament and to the responses to this consultation paper, we would aim to lay the proposal before Parliament at the earliest opportunity.

CHAPTER 14

Consultation

- 14.1 Your views are invited on all aspects of this consultation paper. As many organisations and individuals have already commented in depth on our earlier Housing Green Paper proposals, we would particularly welcome views on the aspects of our proposals that are new or that relate specifically to the Regulatory Reform process.
- 14.2 The following questions are intended to serve as a guide.

NEW ASPECTS OF THE PROPOSALS

1. Do you agree with the proposal to:
 - i. bring authorities' powers to give grants, loans and other forms of financial assistance for home improvement together within the same legal framework;
 - ii. enable authorities to help disabled people meet their contributions towards the cost of adaptations;
 - iii. enable authorities to help people with the cost of buying another property where this is a better option than improving or adapting their own home;
 - iv. extend the power to cover people in all housing tenures;
 - v. require authorities to follow a published policy and have regard to guidance?

REGULATORY REFORM ISSUES

2. Does the existing legislation place a burden on local authorities, or on other organisations or individuals? If so, in what way(s)?
3. What are the benefits of the proposals?
4. What are the disadvantages?
5. What protections does the existing legislation provide (see paragraph 11.2 for some possible ones we have identified), which it would be necessary for us to retain?
6. Would the proposed reforms prevent anyone from exercising an existing right or freedom (see discussion in paragraph 11.1) that they might reasonably expect to continue to exercise? If so, in what way(s)?
7. What costs or savings may arise as a result of the reforms? To whom?

- 14.3 Normal practice will be for details of representations received in response to this consultation document to be disclosed, or for respondents to be identified. While the Bill provides for representations to be made in confidence, no respondent will be able to exclude their name from the list submitted to Parliament alongside the draft Order. You should note that:
- if you request that your representation is not disclosed, the Minister will not be able to disclose the contents of your representation without your express consent and, if the representation concerns a third party, their consent too. Alternatively, the Minister may disclose the content of your representation but only in such a way as to anonymise it.
 - in all cases where your representation concerns information that may be damaging to the interests of a third party, the Minister is not obliged to pass it on to Parliament if he does not believe it to be true or he is unable to obtain the consent of the third party.
- 14.4 If you wish to give information in confidence, please identify any information which you or any other person involved do not wish to be disclosed.
- 14.5 Finally, you should be aware that the Parliamentary Scrutiny Committees will be able to request sight of your representation as originally submitted. This is a safeguard against attempts to bring improper influence to bear on the Minister. We envisage that, in the normal course of events, this provision will only be used rarely and on an exceptional basis.
- 14.6 The Parliamentary Committees dealing with orders under the Deregulation and Contracting Out Act 1994, who are also likely to deal with orders under the Regulatory Reform Bill, have requested that a note explaining the Parliamentary process for orders made under the Act be annexed to all consultation papers, so that consultees understand when and to whom they are able to put their views should they wish to do so. This is attached at Annex C.

A draft Regulatory Impact Assessment is attached at Annex D.

- 14.7 This consultation paper is being sent to the organisations and individuals listed at Annex E and is also on the Department's website¹². Responses to this consultation should be made no later than **29 June 2001** and should be sent to:

Jeremy Hotchkiss
 Housing Policy, Renewal & Ownership
 Department of the Environment, Transport & the Regions
 Zone 2/F8
 Eland House
 Bressenden Place
 LONDON SW1E 5DU
 Tel 020 7944 3447
 Fax 020 7944 3439
 e-mail jeremy_hotchkiss@detr.gsi.gov.uk

¹² www.detr.gov.uk

If you are responding from Wales, please could you copy your response to:

Brendon Hilbourne
Housing Directorate
National Assembly for Wales
Cathays Park
CARDIFF CF10 3NQ
Tel 029 20 823874
Fax 029 20 826989
e-mail brendon.hilbourne@wales.gsi.gov.uk

- 14.8 If you are responding on behalf of an organisation, please make clear in your response which organisation you represent. Enquiries relating to the proposals or to the consultation process should be made to the same contact point.

Complaints or comments about the consultation process should be directed to:

Martin Leppert
Corporate, Business and Agencies Division
Department of the Environment, Transport & the Regions
Zone 1/H9
Eland House
Bressenden Place
LONDON SW1E 5DU
Tel 020 7944 4307
Fax 020 7944 4355
e-mail martin_leppert@detr.gsi.gov.uk

ANNEX A

Quality and Choice: A decent home for all, The Housing Green Paper (April 2000)

Private sector housing renewal proposals

EXTRACT FROM CHAPTER 4: ENCOURAGING SUSTAINABLE HOMEOWNERSHIP

Providing more effective help to owners of poor quality housing

- 4.46 It is neither possible nor desirable to provide public money to tackle all the problems of poor condition housing in the private sector. In many cases, this would merely displace the investment that homeowners would otherwise have made themselves. Our aim is to provide better opportunities for people to maintain and repair their homes from their own resources where they are able to, and to help those who cannot afford to do so.
- 4.47 As part of this, we are considering the possibility of producing an index of figures to illustrate the potential costs of keeping a range of homes in good order over their lifetime. This would help people to identify and plan for the long term cost of maintaining their preferred home.
- 4.48 In the past, local authority help to homeowners has been driven by a desire to preserve properties. We believe that the focus should be on protecting people, and that priority should be given to those cases:
- where the household is most at risk from poor housing and the owner cannot afford to repair the house;
 - where the poor condition of a house or group of houses is having a negative impact on the wider area; and
 - where the authority has a scheme to improve the area as a whole.
- 4.49 Under the present renewal grant regime, introduced in 1996, local authorities have powers to give grants to help people repair their homes. The circumstances in which they can do this, and the amounts they are able to pay, are closely prescribed. This can lead in some cases to poor targeting of resources, where large sums of money in the form of renovation grants go to people with considerable assets, but where no help is available to others who may be equally or more deserving.

- 4.50 In particular, many people have substantial amounts of capital in the form of equity locked up in their homes, which could be used to finance home improvement, but may be eligible for grants because their income is low. Enabling them to make use of some of that equity to repair their homes would free up valuable resources, which could then be used to help other households. However, there are a number of hurdles that need to be overcome before equity release can become commercially viable.
- 4.51 We believe that a new approach is needed that allows local authorities to use their resources more effectively as part of their strategic role in providing help to a wider range of homeowners. That help might take the form of a grant or a loan, the provision of a low-cost maintenance service through a home improvement agency, or advice or help in taking out a commercial loan.
- 4.52 In general, grants should only be given where no other option is available or practicable. However, local authorities are best placed to judge what form of help to give in each case. They should be allowed to develop measures that match the housing, social and economic conditions in their area, the needs of homeowners and private sector tenants, and the local housing strategy. We believe that the role of Government should be to set objectives and targets and give authorities the tools and to make sure they make the most effective use of the resources at their disposal. This is in line with our Modernising Government agenda and with our emphasis on local authorities' strategic responsibility for improving housing conditions across all tenures.
- 4.53 We are therefore proposing to adopt a new approach, on which we would welcome your views. Our approach would contain the following elements:

- **Reforming local authorities' grant-giving powers (currently under Part I of the Housing Grants, Construction and Regeneration Act 1996) to give them greater discretion over how they give grants.**

This could be done in two ways. The first would involve retaining the existing grant structure – renovation grants, common parts grants, HMO (houses in multiple occupation) grants and home repair assistance – but giving authorities the freedom to determine who should be eligible, how much grant to give, and what conditions to attach. The second would involve replacing the existing legislation with a general power to give grants for home renovation, which would include a power to determine eligibility, amounts and conditions for repayment. In either case, we would consider the case for allowing authorities to reuse any receipts from repayments.

- **Broadening local authorities' existing loan-giving powers (currently in Part XIV of the Housing Act 1985), to enable them to give preferential or interest-free loans for home improvement.**

This could be done either by removing the requirement for authorities to charge interest at a prescribed rate and at set intervals, or by prescribing an interest rate but allowing authorities to defer any repayments until the property on which the loan is secured is sold. Again, we would consider the case for allowing local authorities to reuse the receipts from loan repayments. We also propose to allow preferential or interest-free loans to be used to help disabled people to finance their contributions towards the cost of adaptations.

- **Giving local authorities new powers to make payments to third parties such as Home Improvement Agencies to help lever in private finance for home improvement.**

Local authorities already have powers, under Part XIV of the 1985 Housing Act, to indemnify mortgagees and to contribute towards mortgage costs. Your views are invited on whether these powers are sufficient, or whether they would need to be broadened further. In addition, your views are invited on whether local authorities' powers to give financial assistance to third parties should be extended to include bodies that provide interest-free or preferential loans for home improvement.

- 4.54 Subject to the responses to this consultation, we would take these proposals forward when the next legislative opportunity arises. We propose, as an interim measure, to issue a general consent giving local authorities broader powers to vary the grant condition period, set additional conditions and to waive the requirement to repay grants in certain circumstances. Once the main proposals were in place, we would need to establish clear guidelines and monitoring arrangements to ensure that public resources are used effectively and to avoid the risk of fraud. We would therefore also issue new guidance to local authorities.
- 4.55 The guidance would direct authorities to target help on households who are most at risk from the effects of poor housing, and on areas where the cumulative effect of poor quality private sector stock threatens the viability of the neighbourhood. It would direct them to choose the form of assistance that makes the most effective use of public resources in each case. The guidance would also encourage authorities to develop links with lenders, in order to help households access affordable commercial loans. We would continue to monitor the results of local authorities' activity and reward good performance, through the Housing Investment Programme and Best Value.

The full text of the Housing Green Paper can be found on the DETR website at <http://www.housing.detr.gov.uk/information/consult/homes/green/index.htm>

Hard copies of the Housing Green Paper, *Quality and Choice: A Decent Home for All – The Housing Green Paper*, are available from:

Department of the Environment, Transport and the Regions
 Publications Sales Centre
 Unit 21
 Goldthorpe Industrial Estate
 Goldthorpe
 Rotherham S63 9BL
 Tel: 01709 891318
 Fax: 01709 881673
 ISBN 1 85112 378 4, Price £10

ANNEX B

Legislation and Guidance

Primary legislation:

Housing Grants, Construction and Regeneration Act 1996 – Part I contains the main legislation on the main private sector housing renewal grants and Part IV contains the main legislation on relocation grants

Local Government and Housing Act 1989 – Part VII contains legislation on renewal areas

Housing Act 1985 – Part XIV contains legislation on home improvement loans

Statutory Instruments:

SI 1996 No. 2352 – The Housing Grants, Construction and Regeneration Act 1996 (Commencement No. 1 Order 1996)

SI 1996 No. 2842 – The Housing Grants, Construction and Regeneration Act 1996 (Commencement No. 2 and Revocation, Savings, Supplementary and Transitional Provisions) Order 1996

SI 1996 No. 2883 – The Group Repair (Qualifying Buildings) Regulations 1996

SI 1996 No. 2887 – The Home Repair Assistance Regulations 1996

SI 1996 No. 2888 – The Disabled Facilities Grants and Home Repair Assistance (Maximum Amounts) Order 1996

SI 1996 No. 2889 – The Housing Renewal Grants (Services and Charges) Order 1996

SI 1996 No. 2890 – The Housing Renewal Grants Regulations 1996

SI 1996 No. 2891 – The Housing Renewal Grants (Prescribed Form and Particulars) Regulations 1996

SI 1996 No. 3119 – The Housing Renewal Grants and Home Repair Assistance (Amendment) Regulations 1996

SI 1997 No. 977 – The Housing Renewal Grants (Amendment) Regulations 1997

SI 1997 No. 978 – The Housing Renewal Grants (Prescribed Form and Particulars) (Amendment) Regulations 1997

SI 1997 No. 2764 – The Relocation Grants Regulations 1997

- SI 1997 No. 2846 – The Housing Grants, Construction and Regeneration Act 1996 (Commencement No. 3) Order 1997
- SI 1997 No. 2847 – The Relocation Grants (Form of Application) Regulations 1997
- SI 1998 No. 808 – The Housing Renewal Grants (Amendment) Regulations 1998
- SI 1998 No. 809 – The Housing Renewal Grants (Prescribed Form and Particulars) (Amendment) Regulations 1998
- SI 1998 No 810 – The Relocation Grants (Form of Application) (Amendment) Regulations 1998
- SI 1998 No. 2998 – The Home Repair Assistance (Extension) Regulations 1998
- SI 1999 No. 68 – The Housing Renewal Grants (Common Parts) Order 1999
- SI 1999 No. 1523 – The Housing Renewal Grants (Amendment) Regulations 1999
- SI 1999 No. 1541 – The Relocation Grants (Form of Application) (Amendment) Regulations 1999
- SI 1999 No. 1607 – The Housing Renewal Grants (Prescribed Form and Particulars) (Amendment) Regulations 1999
- SI 1999 No. 2568 – The Housing Renewal Grants (Amendment) (England) Regulations 1999
- SI 1999 No. 2624 – The Housing Renewal Grants (Prescribed Form and Particulars) (Amendment) (England) Regulations 1999
- SI 1999 No. 2625 – The Relocation Grants (Form of Application) (Amendment) (England) Regulations 1999
- SI 1999 No. 2766 – The Home Repair Assistance (Extension) (England) Regulations 1999
- SI 2000 No. 531 – The Housing Renewal Grants (Amendment) (England) Regulations 2000
- SI 2000 No. 538 – The Housing Renewal Grants (Prescribed Form and Particulars) (Amendment) (England) Regulations 2000
- SI 2000 No. 720 – The Relocation Grants (Form of Application) (Amendment) (England) Regulations 2000
- SI 2000 No. 910 – The Housing Renewal Grants (Amendment No. 2) (England) Regulations 2000
- SI 2000 No. 1492 – The Housing Grants (Additional Purposes) (England) Order 2000

Guidance:

DOE Circular 17/96 – Private Sector Renewal: a Strategic Approach

DOE Circular 04/97 – Changes to the Renovation Grant Test of Resources

DETR Circular 17/97 – Relocation Grant

DETR Circular 04/98 – Changes to the Renovation Grant System

DETR Circular 06/99 – Amendments to the Renovation Grant System

DETR Circular 03/2000 – Amendments to the Renovation Grant System

Consents, Specifications and Directions:

* Renewal Areas: Directions, Specifications, Determinations, Requirements and Conditions Imposed Under Part VII of the Local Government And Housing Act 1989

The Housing Renewal Grants (Owner's Interest) Directions 1996

The Housing Renewal Grants (Radon) (England) Specification 1996

The Housing Renewal Main Grants (Recovery of Compensation) General Consent 1996

The Housing Renewal Grants (Landlord's Applications) (England) Direction 1996

Group Repair Schemes (England) General Approvals 1996

Relocation Grants (Grant Recovery) General Consent 1997

Housing Renewal Grants Etc. (Exchequer Contributions) (England) Determination 1999

Renewal Areas (Exchequer Contributions) (England) Determination 1999

Relocation Grants (Exchequer Contributions) (England) Determination 1999

The Housing Renewal Grants (Additional Conditions) (England) General Consent 2000

Housing Grants, Construction and Regeneration Act 1996 (Grant Repayment) General Consent 2000

Group Repair Schemes (England) General Approvals 2000

Renewal Areas; Directions as Respects England Under Section 90 of the Local Government and Housing Act 1989 (Amends * above)

ANNEX C

Regulatory reform proposals and orders: parliamentary consideration

Introduction

1. These reform proposals in relation to private sector housing renewal will require changes to primary legislation in order to give effect to them. There are two options for the way forward:
 - **firstly**, the Government could introduce a Bill into Parliament, as Parliamentary time permits. **On that basis**, the Government would welcome comments on its proposals;
 - **secondly**, the Government could consult now, respecting the requirements of the draft Regulatory Reform Bill, as laid before Parliament in a Command Paper (Cm 4713) published in April 2000. The proposals in this draft Bill would build on and enlarge the powers in the Deregulation and Contracting Out Act 1994 to make Deregulation Orders, and would allow reform proposals such as these to be implemented by a Regulatory Reform Order, subject to preliminary consultation and an extended Parliamentary scrutiny of any subsequently proposed Order. Under the draft Bill, if preliminary consultation is undertaken before the Bill is passed that would otherwise satisfy the requirements of the Bill, it would be allowed to count as a consultation under the Bill as enacted. **If appropriate, and provided that Parliament enacts the Bill substantially in the form in which it was laid before Parliament in Cm 4713**, the Government might then bring forward a proposal for a Regulatory Reform Order. **On that basis**, the Government also invites comments on these reform proposals in relation to private sector housing renewal as measures that might be carried forward by a Regulatory Reform Order under the proposed Bill.

Regulatory Reform Proposals

2. Detailed information on the draft Regulatory Reform Bill can be found at <http://www.cabinet-office.gov.uk/regulation/index/bill.htm>.
3. The starting point for regulatory reform proposals is thorough and effective consultation with interested parties. In undertaking this preliminary consultation, the Minister is expected to seek out actively the views of those concerned, including those who may be adversely affected, and then to demonstrate to the Scrutiny Committees that they have dealt with those concerns.
4. To that end, when the Minister lays proposals before Parliament under the proposed Bill (this can only happen after the Bill receives Royal Assent), he or she must also lay a report setting out:
 - the burden imposed by the existing law;
 - whether any of those burdens are proposed to be removed or reduced;
 - how the proposals otherwise further the other objects of the Bill (re-enacting proportionate burdens, introducing new but proportionate burdens, removing inconsistencies and anomalies);
 - whether there is 'necessary protection' and how it is to be continued;
 - how any reasonable expectation of the exercise of rights or freedoms is affected (if at all) and how the exercise can be continued;
 - how new burdens (if any) are both proportionate and, taking the proposals as a whole, strike a fair balance between the public interest and the interests of the persons affected by the new burdens;
 - whether any parts of the proposed Order are being designated as 'subordinate provisions', allowing them to be changed by less elaborate Parliamentary procedures in the future;
 - what cost savings or increases are expected, and why;
 - what other benefits there will be from the proposals;
 - details of the consultation process;
 - any representations received as a result of that consultation; and
 - the changes made as a result.
5. Under the proposed Bill, on the day the Minister lays the proposals and report, the period for Parliamentary consideration begins. It would last for 60 days, excluding Parliamentary recesses. If you wanted a copy of the proposals and the Minister's report, you would be able to get them either from the Government department concerned or by visiting the Cabinet Office's website at <http://www.cabinet-office.gov.uk/regulation/2000/bill/condocs.htm>

Parliamentary Scrutiny

6. Both Houses of Parliament could be expected to make special arrangements to scrutinise regulatory reform proposals and orders. This is likely to involve the appointment of Select Committees in each House, on the lines of those scrutinising Deregulation Orders which would be superseded by Regulatory Reform Orders under the proposed Bill.
7. Subject to the terms of any Standing Order under which they were appointed, any such Committee might well consider in each case whether proposals:
 - a) appeared to make an inappropriate use of delegated legislation;
 - b) removed or reduced a burden or the authorisation or requirement of a burden;
 - c) continued any necessary protection;
 - d) had been the subject of, and taken appropriate account of, adequate consultation;
 - e) imposed a charge on the public revenues or contained provisions requiring payments to be made to the Exchequer or any Government department or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribed the amount of any such charge or payment;
 - f) purported to have retrospective effect;
 - g) gave rise to doubts whether they were within the powers granted by the Bill;
 - h) required elucidation or appeared to be defectively drafted;
 - i) appeared to be incompatible with any obligation resulting from membership of the European Union.

This list reflects the existing terms of reference. It is likely that they would be expanded to cover:

- whether any of the proposals could prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise and, if so, how he is to be enabled to continue to exercise that right or freedom;
- whether the proposals would have the effect of creating a burden affecting any person in the carrying on of an activity and, if so, how the conditions on proportionality in section 1(1)(c) and 3(2) are satisfied in relation to the burdens being created;
- whether any provisions of the proposed order are being designated as subordinate provisions for the purposes of section 4 and, if so, why they are being so designated.

Each Committee might take oral or written evidence to help it decide these matters.

8. It could then be expected to report:
 - whether the Minister should proceed to lay a draft order in the same terms as the proposal, or
 - whether amendment is necessary, or
 - whether the order-making power should not be used (for example, because of the significance or sensitivity of the proposal).

Copies of Committee Reports, as Parliamentary papers, could be obtained through HMSO. They would also be made available on the Parliament website at <http://www.parliament.uk>.

9. Under the draft Bill, after the 60 days for Parliamentary consideration, the Minister would be able to lay a draft order before both Houses, this time for the approval of Parliament.
10. Subject to the terms of any Standing Order appointing it, a Committee might be expected to examine any draft order to see how far its views have been taken into account. It might then report, within 15 sitting days, whether the draft order should be approved or not, and it would then be for the relevant House itself to take its final decision.
11. Any final draft order would have to be approved by both Houses of Parliament before becoming law.

How To Make Your Views Known

12. Your first and main opportunity is to make your views known to the relevant department as part of the Government's consultation process, and you should send your views to the person named in the consultation document [in this case Jeremy Hotchkiss]. If, when the Minister lays proposals before Parliament, you feel that your concerns have not been adequately reflected, you are welcome to put your views before any Committee appointed by either House.
13. In the first instance, this should be in writing. The Committees would normally decide on the basis of written submissions whether to take oral evidence.
14. Your submission should be as concise as possible, and should focus on one or more of the criteria listed in paragraph 7 above.
15. The Government will inform all those responding to this consultation exercise of the contact details of any Committees appointed to scrutinise Regulatory Reform Orders, before proceeding to lay any draft Order that may arise from this consultation, if it decides to seek to legislate by this route.

Confidentiality

16. The Bill provides at clause 6 what should happen when someone responding to the consultation exercise on a proposed order requests that their response should not be disclosed.
17. Generally, representations can be made in confidence but the fact that someone has made representations will always be disclosed to Parliament. However the Minister should not disclose the content of that representation without the express consent of the respondent and, if the representation relates to a third party, their consent too. Alternatively, the Minister may disclose the content of the representation in such a way as to preserve the anonymity of the respondent and any third party involved. Where a respondent has given information about a third party which the Minister believes may be damaging to the interests of that third party, the Minister does not have to pass on such information to Parliament if he does not believe it is true or he is unable to obtain the consent of the third party to disclosure.
18. The Bill also allows the scrutiny Committees access on request to the representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of regulatory reform orders. The fact that responses may be released to the Committees in this way will be made clear in the consultation document accompanying any proposed order.

**Regulatory Impact Unit
Cabinet Office**

August 2000

ANNEX D

Draft regulatory impact assessment

Private Sector Housing Renewal: reform the Housing Grants, Construction and Regeneration Act 1996, Local Government and Housing Act 1989 and Housing Act 1985

Introduction

1. This proposed regulatory reform order would amend Part I and sections 131-140 of the Housing Grants, Construction and Regeneration Act 1996, Part VII of the Local Government and Housing Act 1989 and sections 435-444 of the Housing Act 1985, as they apply to local housing authorities. It would extend to England and Wales.

The matters in the sections below are examined in further detail in the consultation paper, which this regulatory impact assessment accompanies.

Purpose and intended effect

2. Local housing authorities ('authorities') currently spend over £375 million each year in assisting in the repair and improvement of privately owned housing in England and Wales. Their powers to give assistance are governed by detailed provisions in the Housing Grants, Construction and Regeneration Act 1996, the Local Government and Housing Act 1989 and the Housing Act 1985. The reforms aim to remove most of those restrictions.

Risk assessment

3. The existing provisions were intended mainly to prevent public money from being wasted and many of these date back to an earlier, mandatory grant regime. Now that authorities have the discretion to give grants as they see fit, the Government believes that the risks can be managed better through the Housing Investment Programme, Best Value regimes and Public Service Agreements, which provide Government with the means of ensuring that authorities deliver against strategic objectives .

Benefits

4. By removing the restrictions governing authorities' activity, the reforms aim to provide:
 - More discretion for authorities to address the specific needs of their area;
 - More effective use of resources, allowing more people to be helped than at present;
 - Less dependency on grants, and better reinforcement of homeowners' responsibilities towards their properties;
 - More choice for homeowners and disabled people, e.g. between a grant or a loan, or between help with improvements or help with a move;
 - Better tools to tackle obsolete and surplus housing as a result of more scope for providing more help with moving house;
 - More coherent legislation, leading to more consistent service delivery by authorities; and
 - More consistency with wider Government objectives, including those of Modernising Government.

Compliance costs and savings for business, charities and voluntary organisations

5. The reforms will not impose compliance costs on any organisation or individual. However, the more widespread availability of local authority financial assistance may help to overcome some of the barriers that have tended to prevent lenders from offering affordable smaller loans. It may also help to expand the market for smaller renovation works, which could benefit local builders.

Other costs and savings

6. We believe that overall, the reforms will allow local authority resources to be used more effectively and go further. Costs and savings to individual householders and local housing authorities will depend mainly on the extent to which authorities make use of their new powers, and on the social and economic conditions in an area. For example, there is likely to be more scope to use 'equity release' loans in areas where property values, and levels of available equity, are high.
7. Where authorities choose to make greater use of loans instead of grants, the reforms could lead to a small increase in costs to people who would otherwise have received assistance under the existing provisions. However, this would be balanced by savings to other households who would benefit from the more widespread availability of assistance.

8. The reforms could increase local authorities' administrative costs if they chose to administer loans themselves. However, the reforms offer scope for authorities to reduce or capitalise those costs and to make savings through the more widespread use of loans and loan guarantees in place of grants. One home improvement agency in Birmingham, which has piloted the use of grants to lever in private finance, has suggested that a grant used in this way could lever in a loan of over ten times the amount.

Results of earlier consultations

9. The reforms were first proposed in the Housing Green Paper in April 2000, which was sent to nearly a thousand organisations and individuals. Consultation on the Green Paper ended in July. The reform proposals received a positive response from the majority of those who responded, representing a broad cross-section of interests in both England and Wales.
10. This consultation paper is being sent to a range of interest groups (listed at Annex E of the main consultation paper) in accordance with provisions in the Regulatory Reform Act. The deadline for responses is 29 June 2001.

Contact point:

Jeremy Hotchkiss
Housing Policy, Renewal & Ownership
Department of the Environment, Transport & the Regions
Zone 2/F8
Eland House
Bressenden Place
LONDON SW1E 5DU
Tel 020 7944 3447
Fax 020 7944 3439
e-mail jeremy_hotchkiss@detr.gsi.gov.uk

Date: 1 February 2001

ANNEX E

List of organisations and individuals consulted

Age Concern England
All Wales Chief Housing Officers Panel (AWCHOP)
Association of London Government
Anchor Trust
Association for the Conservation of Energy
Association of British Insurers
Association of London Governments
Association of Residential Letting Agents
Association of Residential Managing Agents
Aston Reinvestment Trust (ART)
Audit Commission

Building Research Establishment

Care & Repair Cymru
Care and Repair England
Centre for Housing Policy
Chartered Institute of Housing
Chartered Institute of Housing in Wales (CIHW)
Chartered Institute of Public Finance & Accountancy
CIEH (Chartered Institute of Environmental Health)
CO Gas Safety
Council of Mortgage Lenders
CURS, Birmingham University
CVCP

Department for Regional Development – Northern Ireland
Department of Health
Department of Social Security
District Surveyors Association
Drivers Jonas Surveyors
Department of Trade and Industry

EAGA Partnership
Eastern HEES
Eastern Landlords Association
Employers' Organisation
Empty Homes Agency
Energy Saving Trust
English Local Authorities (391) – Chief Executives
English Local Authorities (391) – Housing Officers
ENTEC UK Ltd
ESRC

Faculty of Actuaries
Family Policies Studies Centre
Federation of Master Builders
Focus Housing
Foundations

All Government Offices for the Regions
Greater London Authority

H.O.M.E.S.
HACAS Exchequer
Health and Housing Group
Health and Safety Commission
Health and Safety Executive
Help the Aged
HM Treasury
HMO Network
Home Improvement Trust
House Builders Federation
Housing Centre Trust
Housing Corporation
Housing Improvement Officers Association
Housing Inspectorate

Improvement and Development Agency (IDeA)
Independent Housing Ombudsman
Institute of Building Control
Institute of Home Safety

Joseph Rowntree Foundation

Law Commission for England and Wales
Law Society
Legal Research Institute, University of Warwick,
Local Government Association
Local Government Management Board (see Improvement and Development Agency, and
Employers Organisation)
Local Government Ombudsman
London Centre for the Built Environment, South Bank University
London Research Centre
Low Pay Commission

MENCAP
Mind

National Assembly for Wales
National Association of Citizens Advice Bureaux, Social Policy Department
National Association of Estate Agents
National Audit Office
National Consumers Association
National Consumers Council
National Energy Action

National Federation of Builders
 National Federation of Residential Landlords
 National Home Improvement Council
 National House Building Council
 National Housing and Town Planning Council
 National Housing Federation
 National Tenants Resource Centre
 New Economics
 NFRL
 Northern Consortium of Housing Authorities
 NUS

Peabody Trust
 Planning Exchange

Radar
 Regional Development Agencies
 RIBA (Royal Institute of British Architects)
 Royal College of Occupation Therapists
 Royal Institution of Chartered Surveyors
 Royal National Institute for the Blind
 Royal Society for the Prevention of Accidents
 Royal Town Planning Institute
 Registered Social Landlords (Top 200)
 Rural Voice

Scope
 Scottish Executive (Environment)
 Scottish Homes
 Scottish Law Society
 Shelter
 Shelter Cymru
 Shelter Campaign for Bedsit Rights
 Small Landlords Association
 Society of Directors of Public Protection in Wales (SODDPW)
 Southwark Housing
 Sustainable Homes

Tenant Participation Advisory Service
 TUC

Universities (with housing courses)

Water UK
 Welsh Federation of Housing Associations (WFHA)
 Welsh Local Authorities (22) – Chief Executives
 Welsh Local Authorities (22) – Housing Officers
 Welsh Local Government Association (WLGA)

Further copies of this consultation paper are available from:

Department of Environment, Transport and the Regions
DETR Free Literature
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 0870 1226 236
Fax: 0870 1226 237

Or via the DETR web site:
www.housing.detr.gov.uk