STATUTORY RULES OF NORTHERN IRELAND

2011 No. 338

HOUSING

The Housing Executive (Indemnities for Members and Officers) Order (Northern Ireland) 2011

Made - - - -	*28th September 2011*
Coming into operation	*1st November 2011*

The Department for Social Development(**1**) makes the following Order in exercise of the power conferred by section 22 of the Housing (Amendment) Act (Northern Ireland) 2011(**2**):

In accordance with section 22(2) of that Act, the Department for Social Development has consulted with the Executive and such representatives of officers of the Executive and such other persons as it considered appropriate.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Housing Executive (Indemnities for Members and Officers) Order (Northern Ireland) 2011 and shall come into operation on 1st November 2011.

(2) In this Order, "secure", in relation to any indemnity provided by means of insurance, includes arranging for, and paying for, that insurance and related expressions shall be construed accordingly.

Indemnities

2. The Executive may, in the cases mentioned in Article 4, provide indemnities to its members(**3**) or officers.

Insurance

3. In place of, or in addition to, itself providing an indemnity under Article 2, the Executive may, in the cases mentioned in Article 4, provide an indemnity by securing the insurance of any of its members or officers.

(**1**) S.I. 1999/283 (N.I. 1) Article 3(1)
(**2**) c. 22
(**3**) For the meaning of "member", see Schedule 1 to the Housing (Northern Ireland) Order 1981(S.I. 1981/156 (N.I. 3))

Cases in which an indemnity may be provided

4. Subject to Article 5, an indemnity may be provided in relation to any action of, or failure to act by, the member or officer in question which—

(a) is authorised by the Executive, or

(b) forms part of, or arises from, any powers conferred, or duties placed, upon that member or officer, as a consequence of any function being exercised by that member or officer (whether or not when exercising that function the member or officer does so in their capacity as a member or officer of the Executive)—

(i) at the request of, or with the approval of the Executive, or

(ii) for the purposes of the Executive.

Restrictions on indemnities

5.—(1) No indemnity may be provided under this Order in relation to any action by, or failure to act by, any member or officer which—

(a) constitutes a criminal offence: or

(b) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that member or officer.

(2) Notwithstanding paragraph (1)(a), an indemnity may be provided on relation to—

(a) subject to Article 7, the defence of any criminal proceedings brought against the officer or member, and

(b) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

(3) No indemnity may be provided under this Order in relation to the making by the member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against that member or officer.

Matters that exceed the powers of the Executive or member or officer

6.—(1) Notwithstanding any limitation on the powers of the powers of the Executive, the Executive may provide an indemnity to the extent that the member or officer in question—

(a) believed that the action, or failure to act, in question was within the powers of the Executive, or

(b) where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Executive, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for that member or officer to hold that belief at the time when that member or officer acted or failed to act.

(2) An indemnity may be provided in relation to an act or omission which is subsequently found to be beyond the powers of the member or officer in question but only to the extent that the member or officer reasonably believed that the act or omission in question was within their powers at the time at which they acted.