

APPENDIX 8

INSTRUMENT OF DELEGATION UNDER THE HOUSING IMPROVEMENT ACT 1940

PREAMBLE

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

Titles of sub delegates, where sub delegation is applicable:

- MDE Manager Development & Environment
- MWI Manager Works & Infrastructure
- MGC Manager Governance & Community
- MFA Manager Finance & Administration
- PO Development Officer – Planning
- BO Development Officer – Building
- CO Compliance Officer
- BS Consultant Building Surveyor
- EHO Environmental Health Officer

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

Last amended: 31 August 2009

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Provision	Item Delegated / Authorisation	Date of Delegation to CEO	CEO Authorised Sub Delegate / Authorised Officer	Conditions and Limitations	Date of Sub Delegation
s23(1)	<p>1. Power to Declare Houses Unfit for Habitation</p> <p>1.1 The power pursuant to Section 23(1) of the Housing Improvement Act 1940 ("the Act"):</p> <p>1.1.1 to make due inquiries and obtain such reports as the Delegate deems necessary to be satisfied that any house is undesirable for human habitation or is unfit for human habitation;</p> <p>1.1.2 to declare that the house -</p> <p>1.1.2.1 is undesirable for human habitation; or</p> <p>1.1.2.2 is unfit for human habitation.</p>	27 April 2015	MDE, EHO, BO		5 December 2016
s23(2)	<p>1. Power to Declare Houses Unfit for Habitation</p> <p>1.2 The duty pursuant to Section 23(2) of the Act where any house has been declared undesirable or unfit for human habitation -</p> <p>1.2.1 to serve on the owner of the house a declaration together with a written statement setting out particulars of the deficiencies and directing the owner, within a specified time (being not less than one month after the service of the declaration) -</p> <p>1.2.1.1 to carry out such work in respect of the house (including, if so directed, partial demolition) as is directed in the notice; or</p> <p>1.2.1.2 if the Delegate is of the opinion that it is impracticable to make the house desirable or fit for human habitation, to demolish the house; and</p> <p>1.2.2 to serve a copy of the declaration, statement and direction on any occupier of the house and on every registered mortgagee of the land on which the house is situated; and</p>	27 April 2015	MDE, EHO, BO		5 December 2016
s23(2)	<p>1. Power to Declare Houses Unfit for Habitation</p> <p>1.3 The power pursuant to Section 23(2) of the Act where any house has been declared undesirable or unfit for human habitation -</p> <p>1.3.1 if the direction is to demolish, to serve on the occupier (if any) a written notice requiring the occupier</p>	27 April 2015	MDE, EHO, BO		5 December 2016

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	to vacate the house within a specified period being not less than one month after service; and 1.3.2 where the direction requires any work to be carried out in respect of the house, to serve on any occupier (if any) a written notice to vacate the house within a specified period being not less than one month after service, unless the house is, to the satisfaction of the Delegate, made to comply with the directions given by the Delegate before the expiration of the specified period.				
s23(3)	1. Power to Declare Houses Unfit for Habitation 1.4 The power pursuant to Section 23(3) of the Act to certify in writing that the house that has been declared undesirable for human habitation or unfit for human habitation complies with the direction given by the Delegate and in the time specified in the direction under Section 23(2)(c) or (d).	27 April 2015	MDE, EHO, BO		5 December 2016
s23(5)	1. Power to Declare Houses Unfit for Habitation 1.5 The power pursuant to Section 23(5) of the Act where an owner fails to comply with any direction under Section 23 within the time specified in the direction - 1.5.1 to do anything that is necessary to make the house comply with the direction or demolish the house; 1.5.2 to recover any expenses incurred from the owner of the house; 1.5.3 to sell or dispose of any material taken from the house;	This power remains with Council delegation does not apply	N/A		5 December 2016
s23(5)(d)	1. Power to Declare Houses Unfit for Habitation 1.6 The duty pursuant to Section 23(5)(d) of the Act to apply the proceeds of any sale for or towards the expenses incurred by the Council and pay any surplus (if any) in discharge of the mortgage or encumbrance of any registered mortgagee of the land in accordance with their respective priorities and to pay any remaining balance to the owner.	27 April 2015	MDE, EHO, BO		5 December 2016
s25(1)	2. Power of Housing Authority 2.1 The power pursuant to Section 25(1) of the Act to consult with the Housing Authority and the duty pursuant to Section 25(1) of the Act, if required by the Housing Authority by notice in writing, within the time specified in the notice, to make a declaration pursuant to Section 23 of the Act with respect to the house in the form required by the Housing Authority and to give any direction or notice or otherwise exercise any power under Section 23 in the manner required by the Housing Authority.	27 April 2015	MDE, EHO, BO		5 December 2016
s33(3)(a)(i)	3. Power to Declare Clearance Area 3.1 The power pursuant to Section 33(3)(a)(i) of the Act to consult with the Housing Authority where the Housing Authority is intending to submit a recommendation to the Governor under Section 33 of the Act; and	27 April 2015	MDE, EHO, BO		5 December 2016
s33(b)	3. Power to Declare Clearance Area	27 April	MDE, EHO, BO		5 December

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	3.2 The power pursuant to Section 33(b) to make any objections to the Housing Authority, in relation to such recommendation.	2015			2016
s71	4. Dispossession of occupiers failing to vacate premises when required to do so 4.1 The power pursuant to Section 71 of the Act, where any person, after he has been required under the Act by the Council to vacate a house or building, and the person refuses or neglects to vacate the same, to apply and to authorise a person to apply upon a complaint to be laid by him, in the form set out in Schedule 1 to the Act or to the like effect, to any justice, for the justice to issue a summons in the form set out in Schedule 2 to the Act or to the like effect calling upon the occupier of such house or building to appear at a time and place to be therein specified before a court of Summary Jurisdiction consisting of a special magistrate, sitting without any other justice or justices, which court may hear and determine the matter of the complaint in a summary way in the absence of the occupier or otherwise.	This power remains with Council delegation does not apply	N/A		5 December 2016

Head Delegation reviewed by Council on 16 May 2016 (no amendments required)



CLARE & GILBERT VALLEYS COUNCIL