

*These notes refer to the Rates (Amendment) Act (Northern Ireland)
2009 (c.8) which received Royal Assent on 3 November 2009*

Rates (Amendment) Act (Northern Ireland) 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Temporary reduction of rates for specified hereditaments

This section substitutes Article 31C of the Rates (Northern Ireland) Order 1977, providing for reductions in rates for certain properties to be specified in regulations. The percentage reduction, the years to which it applies and the net annual value (NAV) limits will also be set out in regulations. The provision also allows the Department of Finance and Personnel to make provision by regulations for any other matters which it considers are necessary or expedient for the purposes of the Article. The scheme to be introduced by the regulations will commonly be known as the Small Business Rate Relief Scheme.

Section 2: Zero-carbon or low-carbon homes

This section inserts a new Article 30C into the Rates (Northern Ireland) Order 1977. Paragraph (1) enables the Department of Finance and Personnel to make regulations providing full rate relief to the first occupiers of new zero-carbon and low-carbon homes. Provision is made in paragraphs (2) and (3) of the new Article for the relief to apply for up to two years in respect of new low-carbon homes and for up to five years in respect of new zero-carbon homes. These paragraphs also provide for the scheme to be time limited to 31 March 2013 in respect of new low-carbon homes and 31 March 2016 in respect of new zero-carbon homes. Paragraph (4) enables the Department of Finance and Personnel to alter these end dates by subordinate legislation subject to affirmative resolution and make any transitional or savings provisions required on the ending of the scheme.

Provision is also made in paragraph (5) enabling certain key terms, including zero-carbon home and low-carbon home, to be defined in regulations. Paragraphs (6) and (7) make further provision in relation to the definition of the terms zero-carbon home and low-carbon home. Paragraph (8) allows the regulations to provide for the method of claiming relief and for the circumstances in which the relief can be withdrawn. Paragraph (9) allows provision to be made regarding the evidence required to show that the definitions of zero-carbon home and low-carbon home have been satisfied. In connection with

this, paragraph (10) further enables regulations to refer to an existing statutory scheme or process about building and make provision concerning certification, approval and associated fees.

Paragraph (11) provides for an appeal against a decision made by the Department under the regulations. Paragraph (12) makes provision for certain exclusions. Paragraph (13) allows the relief to be applied in respect of a period before the making of the regulations but not before the beginning of the rating year. Paragraph (14) enables the Department through regulations to make any other provisions deemed necessary for the purposes of this scheme.

Section 3: Energy efficiency

This section inserts a new Article 30D into the Rates (Northern Ireland) Order 1977. Paragraph (1) enables the Department of Finance and Personnel to make regulations providing in prescribed cases for the rates payable in respect of a dwelling house to be reduced by an amount to be prescribed in regulations. Paragraph (2) stipulates that the dwelling house must be one to which prescribed measures to improve its energy efficiency have been taken to a prescribed standard and which meets certain prescribed conditions. Paragraph (3) defines certain terms for the purposes of the Article. Paragraph (4) confines the reduction to one year except in prescribed cases and time limits the scheme to 31 March 2015. Paragraph (5) enables the Department of Finance and Personnel to alter this end date by subordinate legislation subject to affirmative resolution and make any transitional or savings provisions required on the ending of the scheme.

Paragraph (6) enables the Department of Finance and Personnel to stipulate in the regulations that a reduction will not be made unless a person has consented to the inspection of the dwelling and to make further provision in relation to such inspections. Paragraph (7) also enables provision to be made in regulations for the method of claiming a reduction and the method of making a reduction under this Article.

Paragraph (8) allows regulations to provide for certain functions to be carried out by persons other than the Department. Appeals against a decision by the Department of Finance and Personnel made under the regulations can also be provided for in regulations by virtue of paragraph (9). Paragraph (10) lists certain exclusions which can also be provided for in regulations.

Paragraph (11) allows the reduction in rates to be applied in respect of a period before the making of the regulations but not before the beginning of the rating year. Paragraph (12) enables the Department of Finance and Personnel through regulations to make any other provisions deemed necessary for the purposes of this scheme.

Section 4: Exemption for industrial hereditaments

This section amends the Rates (Amendment) (Northern Ireland) Order 2004. Subsection (2) provides that the provisions relating to the removal of industrial

derating may be brought into operation by means of an order which has been approved in draft by a resolution of the Assembly. Subsection (3) removes the date of 1 April 2011 as the date for the removal of the industrial derating provisions. Subsections (5) and (6) amend the Rates (Northern Ireland) Order 1977 to allow the percentage liability for industrial hereditaments to be set from 1 April 2011 by means of an order subject to affirmative resolution of the Assembly.

Section 5: Agreements for deferred payment of rates on dwellings

This section substitutes Article 29A of the Rates (Northern Ireland) Order 1977 (agreements for deferred payment of rates on dwellings). Paragraph (1) provides that the Department of Finance and Personnel may enter into an agreement with a person for the payment of rates in respect of a dwelling to be deferred. Paragraph (2) enables regulations to stipulate that the person must be the owner occupier of the property, that the property is a dwelling-house or used partly for the purposes of a private dwelling and that certain conditions must be met. Paragraph (3) enables regulations to stipulate that those entering into a deferment agreement must be of pensionable age, the partner of a person of pensionable age or the surviving partner of a person who has entered into a deferment agreement. Paragraph (4) makes provision that regulations may provide for the terms of the deferment agreement (including repayment, interest and termination), for the debt to be a charge on the property, for the enforcement of this, for an agreement with a surviving partner to transfer the amount outstanding under a deceased partner's agreement and for the definition of specified terms.

Paragraphs (5) and (6) make provision that regulations may provide for a deferment agreement to apply to payment of rates for the whole of the rating year in which the agreement is entered into. Paragraph (7) enables regulations to modify paragraphs (2) and (3) as well as other provisions in the Rates (Northern Ireland) Order 1977 for the purpose of the deferment scheme. Paragraph (8) enables the Department of Finance and Personnel, through regulations, to make any other provisions deemed necessary for the purposes of the deferment scheme. Paragraphs (9) to (11) deal with who is to be treated as a partner for the purposes of the deferment scheme.

The regulations will have to be laid in draft and approved by the Assembly.

Section 6: Extension of liability for unoccupied hereditaments to dwelling-houses, etc.

This section amends Schedule 8A to the Rates (Northern Ireland) Order 1977. Subsection (2) makes provision for the rating of unoccupied properties to be extended to the domestic sector. This includes dwelling-houses, private garages and private storage premises. Subsection (3) introduces separate provision for a reduction in the amount of a rate in respect of unoccupied domestic property and a reduction in the amount of a rate in respect of unoccupied non-domestic property. No reduction will apply in respect of unoccupied domestic property. Subsection (4) provides that where a property is used for both non-domestic

and domestic purposes, that the domestic part of the property will no longer be exempt from rates when empty. Subsection (5) applies the power of the Department to require information under Article 26(2B) of the Rates (Northern Ireland) Order 1977, in respect of unoccupied properties, to properties in the capital value list prior to the rating of empty homes. Subsection (6) applies definitions in the Rates (Northern Ireland) Order 1977 for that purpose.

Section 7: Capital value of hereditaments: change of state of property to be disregarded

This section provides an enabling power to alter the valuation assumptions that apply to properties with a capital value (dwelling houses, garages and private storage premises). This allows the Department of Finance and Personnel to make regulations to deal with steps that owners might take (or omit to take) in an attempt to avoid rates when unoccupied, through causing or allowing the state of their property to change.

The section provides that regulations may make provision for the circumstances in which, and the length of time for which, a change in the state of the property may be assumed not to have occurred. It also provides the power to include additional matters in regulations, including assumptions in relation to changes in the state of a property in comparison with an earlier time, provisions relating to the person by whom acts may be treated as done and provisions that the regulations apply to omissions as well as acts.

Provision is also made in the Act that any regulations must be laid in draft and approved by the Assembly.

Section 8: Repeal of exception from general valuation reference date and other special provisions

Subsection (1) repeals Article 39A(4) of the Rates (Northern Ireland) Order 1977 which provides that an order setting a date by reference to which valuations are made for a new NAV list does not apply to a hereditament which is occupied by a public utility undertaking. Subsection (2) provides that such an order made before subsection (1) comes into operation shall have effect as if subsection (1) had been in force when the order was made.

Subsection (3)(a), (b) and (c) provides that Articles 39C, 39D and 39E which enable orders to prescribe methods for valuing hereditaments occupied by electricity, gas undertakings and water supply or sewerage services respectively for the purposes of a NAV list shall cease to have effect. Such hereditaments will henceforth be valued conventionally.

Subsection (3)(d) provides for the repeal Schedule 3 to the Order which provides for definitions relating to railway hereditaments.

Subsection (3)(e) provides for the repeal of Parts 4 and 10 of Schedule 12 to the Rates (Northern Ireland) Order 1977 which respectively provide for methods for

valuing railway and dock hereditaments. Such hereditaments will henceforth be valued conventionally.

Section 9: Sharing of social security information

This section enables the Department for Social Development (or a person providing services to that Department) to share information relating to social security with the Department of Finance and Personnel and the Northern Ireland Housing Executive (or persons providing services to those organisations) for certain purposes. Those purposes are specified in subsection (3) and include improving the take up of certain reliefs and allowances, namely rate relief under Article 30A of the Rates (Northern Ireland) Order 1977, disabled persons allowance and the lone pensioner allowance, and the administration of such reliefs and allowances.

Section 10: Unauthorised disclosure of information relating to particular persons

This section creates a new offence relating to the unauthorised disclosure of information by persons employed by the Department of Finance and Personnel and members, officers or employees of the Northern Ireland Housing Executive as well as persons employed in the provision of services to those organisations. The relevant penalties are specified in subsection (5).

Section 11: Provisions relating to sharing of social security information extended to Department

This section extends certain references in the Social Security Administration (Northern Ireland) Act 1992 to enable the Department for Social Development to share information with the Department of Finance and Personnel for the purposes of the Department of Finance and Personnel's functions relating to the administration of housing benefit.

Section 12: Power to alter existing agreements under Article 21 of the principal Order

This section amends Article 22 of the Rates (Northern Ireland) Order 1977. Subsection (2) provides that where the Department of Finance and Personnel makes an order altering the maximum level of allowance which may be allowed to a landlord under an agreement under Article 21 of the Rates (Northern Ireland) Order 1977, it may by order alter an allowance in an existing agreement. Provision is also made which enables the Department of Finance and Personnel, by order, to alter an allowance in relation to hereditaments of specified classes. The latter power will be available whether or not a change in the maximum level of allowance under Article 21 is being made. It is likely that this will be applied in respect of NIHE properties and also the domestic private rented sector (following the introduction of the rating of empty homes). Subsection (3) provides for such orders to be subject to affirmative resolution of the Assembly.

Section 13: Certain regulations under Article 23A of the principal Order to be subject to negative resolution instead of affirmative resolution

This section provides that regulations made only for the purpose of amending the list of registered housing associations whose properties are subject to standardised rating liability will be subject to negative resolution, rather than affirmative resolution, of the Assembly.

Section 14: Removal of exclusion of private dwellings from deemed completion days for new buildings

This section is consequential on the introduction of the rating of unoccupied domestic properties. It removes the exclusion of private dwellings from the completion notice process used to determine when properties are deemed to be completed for the purposes of rating unoccupied property.

Section 15: Temporary power to make grants to councils relating to maximum or minimum capital value changes

This section enables grants to be awarded to councils in respect of the 2009/10 and 2010/11 rating years, as regards the reduced maximum capital value of £400,000. This will be levied at 100% of the difference in the product of the rate, between a £500,000 and £400,000 threshold, in 2009/10 and 50% in 2010/11.

Section 16: Interpretation

This section provides for the interpretation of certain words and phrases used in the Act.

Section 17: Minor and consequential amendments

This section introduces Schedule 1 (Minor and consequential amendments), which makes minor and consequential amendments to certain statutory provisions.

Section 18: Repeals

This section introduces Schedule 2 (Repeals), which sets out the statutory provisions that are to be fully or partly repealed.

Section 19: Commencement

This section provides for the commencement of the provisions of the Act.

Section 20: Short Title

This section provides that the new legislation shall be known as the Rates (Amendment) Act (Northern Ireland) 2009.