



# Rates (Amendment) Act (Northern Ireland) 2012

## 2012 CHAPTER 1

An Act to amend the Rates (Northern Ireland) Order 1977. [28th February 2012]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### **Additional rate in respect of large retail hereditaments for the years ending on 31st March 2013, 31st March 2014 and 31st March 2015**

1. After Article 7 of the principal Order (making of rates) there shall be inserted the following Article—

#### **“Additional regional rate in respect of large retail hereditaments for the years ending on 31st March 2013, 31st March 2014 and 31st March 2015**

7A.—(1) An additional regional rate of 8.52 pence in the pound for the year ending on 31st March 2013 shall be levied on the rateable net annual value of every large retail hereditament.

(2) Additional regional rates for the year ending on 31st March 2014 and the year ending on 31st March 2015 shall be made and levied on the rateable net annual value of every large retail hereditament.

(3) In this Article—

“large retail hereditament” means a hereditament which—

(a) has a rateable net annual value not less than £500,000; and

(b) is occupied and used primarily for retail sales;

“retail sales”, in relation to a hereditament, means sales of goods to members of the public who visit the hereditament to buy goods for consumption or use elsewhere for purposes unconnected with a trade or business;

“sales of goods”, in relation to a hereditament, does not include sales of—

(a) meals or refreshments prepared to order for immediate consumption elsewhere; or

(b) vehicles.

(4) The Department may by an order which is made subject to affirmative resolution modify paragraph (3).

(5) The additional regional rate under paragraph (1) shall be treated for the purposes of this Order as a rate made by the Department on the day on which section 1 of the Rates (Amendment) Act (Northern Ireland) 2012 comes into operation.

(6) The provisions of this Order have effect as follows—

(a) Article 7(1) does not apply to the additional regional rate under paragraph (1);

(b) Article 7(4) does not apply to an order under paragraph (1) of that Article so far as it relates to an additional regional rate;

(c) in Article 11(3) the words from “except that” to the end do not apply in relation to an additional regional rate;

(d) Article 15(1) is without prejudice to paragraph (10);

(e) Article 19 is subject to paragraphs (7) to (11);

(f) Article 25A does not apply in relation to an additional regional rate.

(7) Paragraphs (8) to (11) shall have effect with respect to the assessment of persons to, and their liability on account of, an additional regional rate in respect of any hereditament for any year.

(8) A person who is chargeable to an additional regional rate in respect of a hereditament for part only of the year shall, subject to the provisions of this Order, be liable to be charged with such part only of the total amount of the additional regional rate as bears to that amount the same proportion as the number of days in the part of the year during which the person is so chargeable bears to the total number of days in the year.

(9) A person who is chargeable to an additional regional rate in respect of a hereditament for any part of the year may be assessed to the rate in

accordance with paragraph (8) notwithstanding that any part of the year during which the person was so chargeable ended before the rate was made.

(10) A person who is chargeable to an additional regional rate in respect of a hereditament at any time after that rate is made may be assessed to and shall in the first instance be liable to pay—

- (a) if the person was so chargeable at the beginning of the year, the whole of the amount of that rate charged in respect of the hereditament; or
- (b) if the person became so chargeable subsequently, a proportion of that amount calculated on the basis that the person will remain so chargeable until the end of the year,

but shall, if the part of year during which the person is so chargeable ends before the end of the year be entitled to recover from the Department any sums paid by the person in excess of the amount properly chargeable against the person in accordance with paragraph (8).

(11) Paragraph (10) is subject to the following—

- (a) no allowance shall be made for a period of less than seven days; and
- (b) a person shall not be entitled to recover any sum in so far as the person has previously recovered it from another person who is an incoming occupier.”.

### **Temporary rebate for certain previously unoccupied hereditaments etc.**

2. After Article 31C of the principal Order (temporary reduction of rates for specified hereditaments) there shall be inserted the following Article—

#### **“Temporary rebate for certain previously unoccupied hereditaments etc.**

**31D.**—(1) Subject to the provisions of this Article, the Department shall grant to a relevant person a rebate from the rates chargeable in respect of the net annual value of a hereditament to which this Article applies.

(2) No rebate shall be granted except on an application made before 1st April 2013 to the Department by a relevant person; and any such application shall contain such information as the Department may reasonably require.

(3) This Article applies to a hereditament which—

- (a) falls within paragraph (4); and
- (b) became occupied during the year ending on 31st March 2013 immediately after having been unoccupied for a continuous period of twelve months or more.

(4) A hereditament falls within this paragraph if it is included in the NAV list and—

- (a) when last occupied before it became occupied as mentioned in paragraph (3)(b), it was used for retail purposes; or
- (b) if never occupied before it became occupied as mentioned in paragraph (3)(b), it could reasonably have been considered by the Department as likely when next in use to be used for retail purposes.

(5) In this Article—

“F” means the first person to occupy the hereditament after the period mentioned in paragraph (3)(b);

“O” means the owner of the hereditament;

“rebate” means rebate under this Article;

“reduced” includes reduced to nothing;

“retail purposes”, in relation to a hereditament, means the retail provision of goods or services to members of the public who visit the hereditament.

(6) In this Article “relevant person” means—

(a) F; or

(b) O if O pays the rates mentioned in paragraph (1) instead of F,

but the Department shall not grant the rebate to O unless it appears to the Department that the rebate will be applied for F’s benefit.

(7) Subject to paragraph (8)—

(a) the period for which the rebate is granted shall be the period of twelve months beginning with the day on which the hereditament became occupied as mentioned in paragraph (3)(b); and

(b) the amount of the rebate shall be one half of the rates chargeable in respect of that period in respect of the net annual value of the hereditament.

(8) If—

(a) F ceases to occupy the hereditament during the period for which the rebate is granted; or

(b) the rebate would to any extent contravene an EU obligation,

the rebate shall be proportionately reduced and if too large an amount has been paid or allowed by way of rebate the excess shall be recoverable summarily by the Department as a debt.

(9) Where a rebate is granted in respect of a hereditament, in respect of the period for which the rebate is granted—

- (a) Articles 31, 31AA, 31B and 33B shall not apply to the hereditament;
- (b) the hereditament shall not be a specified hereditament for the purposes of Article 31C (temporary reduction of rates for specified hereditaments);
- (c) if the hereditament is distinguished in the NAV list as—
  - (i) exempt from rates under Article 41, 41A or 42 or under Article 12(2) to (4) of the Rates (Capital Values etc.) (Northern Ireland) Order 2006; or
  - (ii) occupied and used wholly or partly for industrial purposes or for transport purposes,

the hereditament shall be treated as if it were not so distinguished.

(10) If the rebate is reduced by virtue of paragraph (8), the reference in paragraph (9) to the period for which the rebate is granted shall be construed accordingly.

(11) The Department shall serve on every relevant person notice of its decision on an application for a rebate.

(12) Any relevant person may, within twenty-eight days of the service on that person of a notice under paragraph (11), apply to the Department for a review by the Department of its decision.

(13) The Department shall serve on every relevant person a notice of the result of the review and any relevant person, if dissatisfied with the result of the review, may appeal to the Lands Tribunal.

(14) On an appeal under paragraph (13) the Lands Tribunal may make any decision which the Department could have made.

(15) The Department may by an order made subject to affirmative resolution modify paragraphs (2) to (8).

(16) Without prejudice to the generality of paragraph (15), an order under that paragraph may—

- (a) for the references to 1st April 2013 and the year ending on 31st March 2013 in paragraphs (2) and (3)(b) substitute references to such date and to such period as may be specified in the order; and
- (b) provide that no rebate shall be granted for so much of any period as falls after such date as may be specified in the order and modify paragraph (7)(a) accordingly.”.

### **Window displays not to constitute occupation in certain cases**

**3.** In Schedule 8A to the principal Order (unoccupied hereditaments), after paragraph 8 there shall be added the following paragraph—

“9.—(1) For the purposes of Article 25A if (apart from this paragraph) a hereditament to which this paragraph applies would be treated as occupied by reason only of a window display during any period after 31st March 2012 and before 1st April 2015, it shall be treated as unoccupied for so much of that period as the conditions in sub-paragraph (2) are satisfied.

(2) The conditions referred to in sub-paragraph (1) are—

- (a) the depth of the window display does not exceed 1.5 metres and the area of the window display does not exceed 5 per cent. of the floor area of that part of the building fronted by the window display;
- (b) the window display is not for the purposes of, and does not identify, a trade or business; and
- (c) the window display is not for political purposes or detrimental to advancement of good community relations.

(3) This paragraph applies to a hereditament if it is included in the NAV list and (disregarding the window display) is—

- (a) a hereditament which, when last occupied, was used for the purpose of the retail provision of goods or services to members of the public who visit the hereditament; or
- (b) a hereditament which has never been occupied but where any building or part of a building comprised in the hereditament is constructed or adapted for the purpose mentioned in head (a).

(4) The Department may by an order which is made subject to affirmative resolution modify sub-paragraphs (2) and (3).”.

#### **Restriction on same state and circumstances assumption for new NAV lists**

4.—(1) Article 39A of the principal Order (time by reference to which, and basis on which, valuations to be made for new NAV list) shall be amended as follows.

(2) In paragraph (1) for the words “hereditament was in the same state and circumstances” there shall be substituted the words “matters mentioned in paragraph (1A) were”.

(3) After paragraph (1) there shall be inserted the following paragraph—

“(1A) The matters referred to in paragraph (1) are—

- (a) matters affecting the physical state or physical enjoyment of the hereditament;
- (b) the mode or category of occupation of the hereditament;
- (c) matters affecting the physical state of the locality in which the hereditament is situated; and

- (d) the use or occupation of other premises situated in the locality of the hereditament.”.

**Repeal in relation to new valuation list of special provision where net annual value fixed having regard to volume of trade**

5.—(1) In Part I of Schedule 12 to the principal Order (basis of valuation - general rule), paragraph 4 (special provision where net annual value fixed having regard to volume of trade or quantity of minerals or other substances extracted) shall be amended as follows.

(2) The words “the volume of trade carried on at the hereditament or” shall be omitted.

(3) For the word “it” there shall be substituted the words “the hereditament”.

(4) The words “volume or” in both places where they occur shall be omitted.

(5) The amendments made by this section do not apply in relation to a valuation list which is in force before the commencement of this section.

**Interpretation**

6. In this Act “the principal Order” means the Rates (Northern Ireland) Order 1977.

**Commencement**

7.—(1) Sections 1, 2 and 6, this section and section 8 come into operation on the day after that on which this Act receives Royal Assent.

(2) The other provisions of this Act come into operation on 1st April 2012.

**Short title**

8. This Act may be cited as the Rates (Amendment) Act (Northern Ireland) 2012.