These notes refer to the Rates (Amendment) Act (Northern Ireland) 2012 (c.1) which received Royal Assent on 28th February 2012

Rates (Amendment) Act (Northern Ireland) 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Additional rate in respect of large retail hereditaments for the years ending on 31st March 2013, 31st March 2014 and 31st March 2015

This section inserts a new Article 7A into the Rates (Northern Ireland) Order 1977, providing for an additional regional rate to be levied on large retail hereditaments. Provision is made in paragraph (1) for an additional regional rate of 8.52 pence in the pound for the rating year ending 31st March 2013. Paragraph (2) allows an additional regional rate to be made and levied on the rateable net annual value of every large retail hereditament for the years ending 31st March 2014 and 31st March 2015. Paragraph (3) provides for the definitions of 'large retail hereditament', 'retail sales' and 'sales of goods' for the purpose of the Article, while paragraph (4) allows these definitions to be modified by subordinate legislation subject to affirmative resolution.

Paragraph (5) provides that the additional regional rate under paragraph (1) will be treated for the purposes of the Rates (Northern Ireland) Order 1977 as a rate made by the Department of Finance and Personnel on the day that section 1 of the Rates (Amendment) Act (Northern Ireland) 2012 comes into operation.

Paragraphs (6) to (11) deal with consequential matters to allow the additional regional rate to be collected in line with the general rate (regional rate and district rate) in respect of any hereditament.

Section 2: Temporary rebate for certain previously unoccupied hereditaments, etc.

This section inserts a new Article 31D into the Rates (Northern Ireland) Order 1977, providing for a temporary 50% rebate for certain previously unoccupied hereditaments, etc.

Provision is made in paragraph (1) of the new Article, subject to the further provisions of that Article, for the Department to grant to a relevant person a rebate from the rates chargeable in respect of the net annual value of a hereditament to which the Article applies. The rebate will therefore only apply to non-domestic properties.

Paragraph (2) provides that no rebate shall be granted except where an application is made to the Department before 1st April 2013 by a relevant person. It also provides that the application must contain such information as the Department may reasonably require.

Paragraphs (3) and (4) specify the hereditaments to which the Article applies, namely hereditaments which become occupied during the 2012/13 rating year after having been unoccupied for a continuous period of twelve months or more and which, when last occupied, were used for retail purposes or which, if never previously occupied, could reasonably have been considered by the Department as likely, when next in use, to be used for retail purposes.

Paragraphs (5) and (6) set out a range of definitions used in the new Article.

Paragraph (7) provides that the rebate shall be granted for a period of 12 months from the date of occupation, and shall be 50% of the rates chargeable in respect of the net annual value of the hereditament.

Paragraph (8) provides that a rebate shall come to an end if a person ceases to occupy the hereditament and shall be reduced to the extent (if any) that it breaches EU state aid rules.

Paragraphs (9) and (10) disapply other reliefs and exemptions where a rebate is granted under the new Article 31D.

Paragraphs (11) to (14) provide that a relevant person may require the Department to review its decision on an application for a rebate and, if dissatisfied with the result of a review, appeal to the Lands Tribunal.

Paragraph (15) contains a general power to make an order, subject to the affirmative resolution, to modify paragraphs (2) to (8) of the new Article. Paragraph (16) then sets out certain things which an order may do, without prejudice to the provisions of paragraph (15). While these provisions contain the power to extend the measure beyond the 2012/13 rating year it is seen strictly as a downturn measure similar to other measures in the Act.

Section 3: Window displays not to constitute occupation in certain cases

This section inserts a new paragraph 9 into Schedule 8A to the Rates (Northern Ireland) Order 1977. Sub-paragraph (1) provides that a property which is deemed to be occupied only by virtue of a window display is to be treated, for the purposes of the Rates (Northern Ireland) Order 1977, as unoccupied. This will apply for the period 1st April 2012 to 31st March 2015. Sub-paragraph (2) lays out the conditions that must be satisfied for the exclusion to apply, while sub-paragraph (3) outlines the hereditaments to which the new paragraph will apply. This includes property that when last used was used for the retail provision of goods or services. Where the property has never been occupied it must have been constructed or adapted for those purposes. Sub-paragraph (4) allows sub-paragraphs (2) and (3) to be modified by subordinate legislation, subject to affirmative resolution.

Section 4: Restriction on same state and circumstances assumption for new NAV lists

Subsection (2) of this section amends Article 39A of the Rates (Northern Ireland) Order 1977 to restrict the matters at the date of the coming into force of a new NAV list which can be taken into account in a valuation of a property for the purposes of the new list. The matters which will be able to be taken into account are listed in subsection (3).

Section 5: Repeal in relation to new valuation list of special provision where net annual value fixed having regard to volume of trade

This section amends paragraph 4 of Part I of Schedule 12 to the Rates (Northern Ireland) Order 1977 (special provision where net annual value fixed having regard to volume of trade or quantity of minerals or other substances extracted). The effect is to repeal the rule applied to properties valued having regard to the volume of trade carried on at the property that the volume to be taken into account shall be the probable volume for the first year with respect to which the valuation will have effect. This change is made to ensure consistency of treatment between business sectors. Subsections (2) to (4) provide the detail of the amendments made. Subsection (5) sets out that the change will not apply to a valuation list that is in force prior to the provision being commenced. As a result the change will take effect at the next revaluation, currently scheduled for April 2015.

Section 6: Interpretation

This section provides for the interpretation of the phrase “the principal Order” as used in the Act.

Section 7: Commencement

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

Section 8: Short Title

This section provides that the new legislation shall be known as the Rates (Amendment) Act (Northern Ireland) 2012.