
STATUTORY INSTRUMENTS

1979 No. 297 (N.I. 4)

NORTHERN IRELAND

The Rates Amendment (Northern Ireland) Order 1979

To be laid before Parliament in draft

Made

14th March 1979

Coming into Operation

1st April 1979

ARRANGEMENT OF ORDER

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At the Court at Buckingham Palace, the 14th day of March 1979

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

(a) 1974 c. 28.

Introductory

Title and commencement

1.—(1) This Order may be cited as the Rates Amendment (Northern Ireland) Order 1979.

(2) This Order shall come into operation on 1st April 1979.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (a) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order, “the principal Order” means the Rates (Northern Ireland) Order 1977 (b).

Hereditaments used for recreation

Reduction of rates on certain hereditaments used for recreation

3.—(1) For Article 31 of the principal Order and the cross-heading immediately preceding it there shall be substituted the following cross-heading and Article—

“Special reliefs in respect of certain other hereditaments

Reduction of rates on certain hereditaments used for recreation

31.—(1) Subject to paragraph (5) and Article 44 (2A) (b) (i), the amount which, apart from this Article, would be payable on account of a rate in respect of a hereditament to which this Article applies shall for each year be reduced in accordance with paragraphs (3) and (4).

(2) This Article applies to a hereditament—

(a) which, or any part of which, is used solely for the purposes of a prescribed recreation; and

(b) which is occupied for the purposes of a club, society or other organisation that—

(i) is not established or conducted for profit, and

(ii) does not employ any person to engage in any recreation for reward, except for the instruction of other persons who are themselves engaging or preparing to engage in it otherwise than for reward; and

(c) which is not distinguished in the valuation list as exempt from rates as being a hereditament of a description mentioned in Article 41 (2) (e) or (f) (recreational charities).

(3) Where the hereditament is shown in the valuation list as used solely for the purposes of a prescribed recreation, the reduction shall be effected by reducing the normal rate by 65%.

(4) Where the hereditament is shown in the valuation list as having part of its net annual value apportioned to a part or parts of the hereditament used solely for the purposes of a prescribed recreation, the reduction shall be effected by computing separately—

(a) so much of the amount payable as is referable to the part of the net annual value shown in the valuation list as so apportioned, and

(a) 1954 c. 33 (N.I.).

(b) S.I. 1977/2157 (N.I. 28).

(b) so much of that amount as is referable to the remainder of the net annual value, and by reducing the normal rate, for the purpose of the computation mentioned in sub-paragraph (a), by 65%.

(5) Where a hereditament is one to which this Article applies during part only of a year, the reduction shall be made for that part of the year only; and if the reduction, or any adjustment in it, affects the amount levied on account of a rate in respect of the hereditament for that year, the difference—

- (a) if too much has been paid, shall be repaid or allowed; or
- (b) if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate.

(6) In this Article—

“the normal rate” for any year in respect of any hereditament means the amount which, apart from this Article, would be the amount in the pound of the rate to be levied for that year in respect of that hereditament;

“prescribed recreation” means a recreation, whether conducted indoors or outdoors, which in the opinion of the Department demands an appreciable degree of physical effort and which is of a kind specified by the Department, after consultation with the Sports Council for Northern Ireland and with any association which appears to the Department to be representative of district councils, by an order made subject to affirmative resolution;

“use” in relation to a hereditament or any part of it means use by members of the club, society or other organisation for the purposes of which the hereditament is occupied or by other persons who under the rules of that club, society or organisation are permitted to use the hereditament or that part;

and for the purposes of this Article and Article 44 (2A) an area provided as a parking place for vehicles of persons engaging in a prescribed recreation, and any part of a hereditament constructed or adapted for use by such persons (or by persons who have engaged or intend to engage in the recreation) as a bathroom or lavatory or for use wholly or mainly for the storage of their clothing or of equipment used for purposes of the recreation, shall be treated as used solely for the purposes of that recreation (notwithstanding that it is also used by other persons or that at particular times it is used by persons none of whom are engaging in such a recreation).”

(2) In Article 44 of the principal Order, after paragraph (2), there shall be inserted the following paragraph—

“(2A) Where a hereditament is one to which Article 31 applies—

- (a) if the hereditament is used solely for the purposes of a prescribed recreation (as defined by Article 31 (6)), it shall be shown in the valuation list as so used;
- (b) if only one or more than one part (but not the whole) of the hereditament is so used, the net annual value of the hereditament shall be apportioned by the Commissioner or the district valuer between the part or parts of the hereditament used solely for the purposes of a prescribed recreation and the remainder of the hereditament, and—
 - (i) if the amount apportioned to the part or parts of the hereditament used solely for the purposes of a prescribed recreation is less than 20% of the net annual value, the hereditament shall be shown in the valuation list as having no part of its net annual value apportioned to that part or those parts;
 - (ii) if the amount so apportioned is 20% or more, but less than 50%, of the net annual value, the apportionment shall be shown in the valuation list;

- (iii) if the amount so apportioned is 50% or more, but less than 80%, of the net annual value, that amount shall be increased by 20% thereof (and the amount apportioned to the remainder of the hereditament shall be reduced accordingly) and the apportionment as so adjusted shall be shown in the valuation list;
- (iv) if the amount so apportioned is 80% or more of the net annual value, the hereditament shall be shown in the valuation list as used solely for the purposes of a prescribed recreation.”.

(3) Where—

- (a) the rate paid for the year ending on 31st March 1979 in respect of any hereditament to which Article 31 of the principal Order applied was reduced in accordance with that Article; and
- (b) during the whole or any part of the two next succeeding years the hereditament would have continued, if this Order had not been made, to be one to which that Article applied; and
- (c) by reason of the substitution of Article 31 made by this Order, the sum which, apart from this paragraph, would be payable on account of the rate for either or each of those years exceeds the sum which would have been so payable if this Order had not been made,

the Department shall, on the application of the occupier of the hereditament, reduce the sum first mentioned in sub-paragraph (c) by the relevant proportion of the difference between that sum and the sum secondly so mentioned.

- (4) For the purposes of paragraph (3) the relevant proportion is—
 - (a) for the year ending on 31st March 1980, two-thirds, and
 - (b) for the year ending on 31st March 1981, one-third.

Distinguishment in valuation list of certain hereditaments used for recreational charities

4.—(1) In Article 41 (2) of the principal Order, after sub-paragraph (e), there shall be inserted the following sub-paragraph—

- “(f) any hereditament, other than a hereditament to which sub-paragraph (e) applies,—
- (i) which is occupied by a body that is not established or conducted for profit; and
 - (ii) which is used, either by the occupying body or by some other person (whether that body or person is a charity or not), to an extent of not less than 10% for purposes which are declared by the Recreational Charities Act (Northern Ireland) 1958 (a) to be charitable; and
 - (iii) which is made available by the occupying body for that use—
 - (aa) where the use is by that body, subject to charges, if any, not more than necessary to defray reasonable expenses actually incurred by the body by reason of that use, or
 - (bb) where the use is not by that body, for a consideration, if any, not more than necessary to defray such expenses;”.

(2) At the end of Article 41 of the principal Order there shall be inserted the following paragraph—

- “(10) In accordance with sub-paragraph (f) of paragraph (2), in paragraphs (3), (4) and (5) as they apply in relation to a hereditament such as is

(a) 1958 c. 16 (N.I.).

mentioned in that sub-paragraph any reference to use of a hereditament is reference to its use either by the occupying body or by some other person and any calculation for any year of the extent of use of such a hereditament for the purposes mentioned in head (ii) of that sub-paragraph, and any apportionment for any year of its net annual value between uses in pursuance of paragraph (3), shall be made on the basis of comparing—

- (a) the number of sessions actually devoted to use for such purposes in that year, with
- (b) the total number of sessions that might reasonably be regarded as available for all active uses in that year (that is to say, for use for the purposes mentioned in paragraph (2) (f) (ii) or for meetings, functions or other activities),

“session” for this purpose meaning a continuous period of two hours or more but less than six hours (a continuous period of six hours or more but less than ten being treated as two sessions, one of ten hours or more but less than fourteen being treated as three sessions and similarly for any longer period) during which on any occasion the hereditament, or where different parts of the hereditament are capable of being used concurrently for different purposes, each such part, is used or, as the case may be, is available for use as aforesaid; and in calculating for the purposes of sub-paragraph (b) the total number of sessions that might reasonably be regarded as available for all active uses regard shall be had to all the circumstances and in particular to the location of the hereditament and the actual or potential demand in the neighbourhood for activities for which the hereditament is or might reasonably be made suitable.”.

Hereditaments used by disabled persons

Rate rebates for certain hereditaments with special facilities for the disabled

5. After Article 31 of the principal Order there shall be inserted the following Article—

“Rate rebates for certain hereditaments with special facilities for the disabled

31A.—(1) Subject to paragraphs (5), (7), (8) and (11), the Department shall, in accordance with the provisions of this Article, grant to the person mentioned in paragraph (4) a rebate from the rates chargeable in respect of a hereditament to which this Article applies.

(2) This Article applies to—

- (a) a hereditament in which there is a facility which is required for meeting the needs of a disabled person who resides in the hereditament, including a facility of any of the following descriptions, that is to say,—
 - (i) a room, other than a bathroom or lavatory, which is wholly or mainly used (whether for providing therapy or for other purposes) by such a disabled person;
 - (ii) an additional bathroom or lavatory;
 - (iii) a heating installation for providing heating in two or more rooms;
- (b) a hereditament in which there is sufficient floor space to permit the use of a wheel chair used by and required for meeting the needs of a disabled person who resides in the hereditament; and

- (c) a hereditament of either of the following descriptions which provides accommodation for a vehicle used by and required for meeting the needs of a disabled person, that is to say,—
 - (i) a hereditament where the disabled person resides which includes a garage or other building or land used otherwise than temporarily for such accommodation;
 - (ii) a hereditament where the disabled person does not reside which consists of or includes such a garage, building or land.
- (3) In paragraph (2)—
 - (a) references to anything being required for meeting the needs of a disabled person are references to its being essential or of major importance to his well-being by reason of the nature and extent of his disability; and
 - (b) references to a disabled person who resides in a hereditament include references to a disabled person who is usually resident there.
- (4) The person entitled to a rebate under this Article (a “rebate”) is—
 - (a) the disabled person if he is the occupier of the hereditament or makes payments by way of rent in respect of all or any of it; or
 - (b) any person who is a member of the same household as the disabled person and either is the occupier of the hereditament or makes such payments as aforesaid.
- (5) No rebate shall be granted except on an application made to the Department by the person entitled to the rebate; and any such application shall contain such information as the Department may reasonably require.
- (6) Subject to paragraph (7), a rebate shall be granted for such period, being a year or part of a year, as the Department may determine (a “rebate period”).
- (7) Where the hereditament qualifies for rebate for part only of a rebate period 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.
- (8) No rebate shall be granted—
 - (a) for any period before 1st April 1979; or
 - (b) except in such circumstances and to such extent as the Department may determine, for any period before the beginning of the year in which the application is made.
- (9) A rebate may be granted either by making a payment of the amount of the rebate or, where the person entitled is the occupier of the hereditament, by reducing the rates payable by him.
- (10) Subject to paragraph (11), the amount of a rebate shall be so much of the rates chargeable in respect of the hereditament for, or properly apportionable to, the rebate period or the relevant part of it as is referable—
 - (a) where the hereditament is one to which this Article applies by virtue of paragraph (2) (a), (b) or (c) (i), to so much of the net annual value of the hereditament as is certified by the district valuer as apportioned by him to the facility, floor space or accommodation in question;
 - (b) where the hereditament is one to which this Article applies by virtue of paragraph (2) (c) (ii) and is certified by the district valuer to provide accommodation solely for a vehicle used by and required for meeting the needs of a disabled person, to the net annual value of the hereditament;

(c) where the hereditament is one to which this Article applies by virtue of paragraph (2) (c) (ii) and is not certified as mentioned in sub-paragraph (b), to so much of the net annual value of the hereditament as is certified by the district valuer as apportioned by him to the part of the garage or other building or land which provides accommodation solely for such a vehicle as is mentioned in sub-paragraph (b).

(11) Where the district valuer certifies that no part of the net annual value of the hereditament is attributable to any facility, floor space or accommodation such as is mentioned in paragraph (2), no rebate shall be granted.

(12) An applicant for a rebate, who is aggrieved by any certificate issued by the district valuer under paragraph (10) or (11) may appeal to the Commissioner, and the provisions of Articles 51 to 54 shall, with the appropriate modifications, apply in relation to an appeal under this paragraph.

(13) Where the person entitled to a rebate under this Article is also entitled to a rebate under a scheme made under Article 28 in respect of the same hereditament and period, that scheme shall have effect as if the rates chargeable in respect of the hereditament for that period were reduced by the amount of the rebate under this Article.”.

Distinguishment in valuation list of certain hereditaments used by institutions for the disabled

6. In Article 41 (2) of the principal Order, after sub-paragraph (f) (inserted by Article 4 above), there shall be inserted the following sub-paragraph—

“(g) any hereditament, other than a hereditament to which sub-paragraph (c) applies, which is occupied by a body and which is used for one or more of the following purposes (either wholly or in conjunction only with its use for purposes ancillary thereto), that is to say,—

- (i) the provision of residential accommodation for the care of persons suffering from illness or the after-care of persons who have been suffering from illness;
- (ii) the provision of facilities for training or keeping suitably occupied persons suffering from illness or persons who have been suffering from illness;
- (iii) the provision of such accommodation or facilities as are mentioned in head (i) or (ii) for disabled persons not falling within that head;
- (iv) the provision of personal social services for disabled persons;
- (v) the provision of facilities under section 15 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 (a);

so however that heads (i), (ii) and (iii) do not apply where the purpose is wholly or mainly to provide medical, surgical or dental treatment for the persons in question; and heads (i) and (iii) do not apply to the provision of residential accommodation where the purpose is wholly or mainly to provide such accommodation for persons who by reason of age are in need of care and attention which is not otherwise available to them.”.

Miscellaneous

Consequential amendments and repeals

7. The following amendments and repeals, consequential on Articles 3 to 6, shall be made in the principal Order—

(a) 1945 c. 6 (N.I.).

- (a) in Article 2 (2), at the appropriate point in alphabetical order, insert—
 “‘disabled person’ means a person to whom section 1 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (a) applies;”;
 and in the definition of “prescribed” before “means” insert “(except in the expression “prescribed recreation” in Articles 31 and 44 (2A))”;
- (b) in Article 15 (1) for “31 (2) (a)” substitute “31 (5) (a)”;
- (c) in Article 41, in paragraphs (3) (a) and (4), in each case, for “or (e)” substitute “(e), (f) or (g)”;
- and in paragraph (9), at the appropriate point in alphabetical order, insert—
 “‘illness’ has the same meaning as in the Health and Personal Social Services (Northern Ireland) Order 1972 (b);”,
 and for “to (e)” substitute “to (g)”;
- (d) Article 42 (2) shall cease to have effect;
- (e) in Article 61 (1) after sub-paragraph (b), omit the word “or” (which shall cease to have effect) and insert—
 “(bb) require records to be kept, for the purposes of Article 41 (2) (f), relating to the use of a hereditament for any activities, prescribe the form of the records and the manner in which they are to be kept, and require production of the records for inspection and copying by persons authorised to act under the regulations;”;
- (f) in Schedule 7, paragraph 3 (a), for “or (e)” substitute “, (e), (f) or (g)”.

Other amendments of the principal Order

8.—(1) The amendments specified in this Article shall be made in the principal Order.

(2) In Article 13 (1) (effect for rating purposes of alteration in valuation list)—

- (a) for “the valuation list”, where first occurring, substitute “a valuation list”, and for that expression in sub-paragraphs (b), (c) (i) and (f) (i) substitute “that valuation list”;
- (b) in sub-paragraph (e) for “a revision of the valuation list” substitute “an alteration in, or decision not to alter, a valuation list or of a revaluation (“the interim revision”)”, and for “the revision” substitute “the interim revision”;
- (c) in sub-paragraph (f) (i) for “is served” substitute “was served”.

(3) At the end of Article 45 (1) (new valuation list to be issued by 31st December in every fifth year) insert “or in such later year as may be specified by an order made by the Department subject to affirmative resolution”.

(4) In Article 45 (5) (alterations in new valuation list between issue and coming into force) for “clerical error” substitute “matter mentioned in Article 50 (1) (a) or (b)”.

(5) In Article 47 (1) (a) (supply by Commissioner of Valuation of copies of certain documents), after “list” insert “or any map or plan relating thereto”, and at the end of that Article insert—

“(4) In this Article any reference to a valuation list includes such a list prepared under the Rates (Northern Ireland) Order 1972 (c) or the transferred provisions repealed by it.”.

(a) 1978 c. 53.

(b) S.I. 1972/1265 (N.I. 14).

(c) S.I. 1972/1633 (N.I. 16).

(6) In Article 51 (appeal to Commissioner against alteration of, or decision not to alter, the valuation list), for the words in paragraph (1) from the beginning of the paragraph to the end of sub-paragraph (b) substitute—

“Any person, other than the Department, who is aggrieved by an alteration which the district valuer has caused to be made in the valuation list, or any person who has served on the district valuer an application for revision of the valuation list and who is aggrieved by a decision of the district valuer not to cause the valuation list to be altered in consequence of the application”.

(7) In Article 55 (review of revision of valuation list made while appeal pending)—

(a) in paragraph (1) for “revision of the valuation list relating to” substitute “alteration in, or decision not to alter, a valuation list in relation to the hereditament or any revaluation of”, and in sub-paragraph (a) for “the list” substitute “a valuation list”;

(b) in paragraph (2) for “the valuation list” where first occurring substitute “a valuation list” and for that expression where secondly occurring substitute “that valuation list”;

(c) in paragraphs (3) and (4), in each case, for “the valuation list” (wherever occurring) substitute “a valuation list”.

(8) In Article 62 (service of documents) after “Article 56 (8)” insert “or the person who applied for revision of the list”.

(9) In Schedule 1 (definitions of “agricultural land” etc.), in paragraph 1 (a), for “one quarter of an acre” substitute “0.1012 hectare”.

(10) In Schedule 13 (hereditaments excluded from exemption) for “The Governors of the Ulster College” substitute “The Governors of the Ulster Polytechnic”.

Amendments of the Development of Tourist Traffic Act (Northern Ireland) 1948

9. In Schedule 2 to the Development of Tourist Traffic Act (Northern Ireland) 1948 (a) (fees payable on registration certificates for catering establishments to be calculated, in certain cases, by reference to the net annual value of the establishment)—

(a) in paragraph 2 the words “and premises” shall cease to have effect, and for the words “the valuation list in force for rating purposes during the financial year” there shall be substituted the words “the valuation list under the Rates (Northern Ireland) Order 1977 at the beginning of the financial year”;

(b) in proviso (a) to that paragraph for the words “the valuation list in force during” there shall be substituted the words “the valuation list at the beginning of”, and for the words “on the then last preceding annual revision” there shall be substituted the words “at the beginning of that year”.

Repeal of obsolete enactment

10. In section 4 of the Justices Protection (Ireland) Act 1849 (b) (justices of the peace indemnified where a warrant of distress is granted in respect of a defective rate or against a person not liable to be rated) the words from the beginning to “therein; and” shall cease to have effect.

N. E. Leigh,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Rates (Northern Ireland) Order 1977 by making fresh provision for rate relief in respect of—

- (a) hereditaments used for recreational purposes, and
- (b) hereditaments used by disabled persons and invalids.

The Order also makes minor amendments in the Order of 1977, makes amendments in the Development of Tourist Traffic Act (Northern Ireland) 1948 which are consequential on the Rates (Northern Ireland) Order 1972 and repeals an obsolete enactment about distress for rates.

STATUTORY INSTRUMENTS

1979 No. 297 (N.I. 4)

NORTHERN IRELAND

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