

**RATES (CAPITAL VALUES, ETC.)
(NORTHERN IRELAND) ORDER 2006**

S.I. 2006 611

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

Part II – Capital Value

Article 3: Application of Part II and Schedule 1: Definition of ‘dwelling-house’ etc.

15. Paragraph (1) provides that Part II applies to any dwelling-house, any property used partly for the purpose of a private dwelling, any private garage and any private storage premises. These are the categories of properties the capital values of which may be published by the Commissioner.
16. Paragraph (2) provides that where a property is currently vacant and the Commissioner or district valuer considers when next in use it would fall within one of the categories mentioned in paragraph 21 above, the property shall, for the purposes of the Order, be deemed to be in use and to fall within that category.
17. Paragraph (3) gives effect to Schedule 1 to the Order. Paragraph 1 of Schedule 1 to the Order applies Schedule 5 to the principal Order for the purposes of determining what is to be treated as a dwelling-house for the purposes of the Order and to what extent certain properties are to be treated as used for the purposes of a private dwelling for the purposes of the Order. The application of Schedule 5 to the principal Order is subject, however, to a number of modifications which have the effect of excluding armed forces accommodation within the perimeter of a military establishment, prison accommodation and individual pitches within a leisure caravan site from the categories of property in respect of which the Commissioner may publish capital values.
18. Paragraphs 2 and 3 of Schedule 1 to the Order define private garage and private storage premises for the purpose of the Order.
19. Paragraph 4 of Schedule 1 to the Order enables the Department to modify Schedule 1 to the Order by regulations subject to a draft of the regulations having been laid before, and approved by a resolution of, the Northern Ireland Assembly.

Article 4 and Schedule 2: ‘Capital Value’

20. Article 4 gives effect to Schedule 2 to the Order.
21. Paragraph 1 of Schedule 2 to the Order defines the capital value of a property as the amount it would have reasonably sold for on the open market on 1 January 2005, based on a number of assumptions as set out in paragraphs 3 to 9 of that Schedule.
22. Paragraph 3 of Schedule 2 to the Order provides for the assumption that the property was sold with vacant possession.

*This Explanatory Memorandum refers to the Rates
(Capital Values, etc.) (Northern Ireland) Order 2006611*

23. [Paragraph 4](#) of Schedule 2 to the Order provides for the assumption that the estate sold was the fee simple absolute or a 99-year lease in the case of a flat.
24. [Paragraph 5](#) of Schedule 2 to the Order provides for the assumption that the property was sold free from rentcharges or other incumbrances, which means that they will not be reflected in the capital value of a property. However, by virtue of the definition of “incumbrance” in paragraph 2 of Schedule 2 to the Order, service charges will be taken into account in determining the capital value of a property.
25. [Paragraph 6](#) of Schedule 2 to the Order provides for the assumption that the property was in an average state of internal repair and fit out, taking account of the age and character of the property. Paragraph 6 also provides that it will be assumed that the property was otherwise in the state and circumstances in which it might reasonably be expected to be on 1 April 2007.
26. [Paragraph 7](#) of Schedule 2 to the Order provides for the assumption that the property had no development potential over and above that for which planning permission is not required or for which no application for planning permission is required.
27. [Paragraph 8\(1\)](#) of Schedule 2 to the Order provides that where a property is a dwelling-house, a private garage or private storage premises or although vacant is deemed to be such a property under Article 3(2) of the Order, it will be assumed that it will always be such a property. Similarly, it will be assumed that where a property is used partly for the purposes of a private dwelling and partly for other purposes or although vacant is deemed to be so used under Article 3(2), it will always be so used.
28. [Paragraph 8\(2\)](#) and [8\(3\)](#) of Schedule 2 to the Order provide that where a house is occupied in connection with agricultural land or a fish farm and used as the dwelling of a person whose primary occupation is the carrying on of or directing of agricultural or fish farming operations on the land or fish farm or a person employed for these purposes, it will be assumed that it will always be so used.
29. [Paragraph 9](#) of Schedule 2 to the Order provides for the assumption that there has been no contravention of any legal obligation, whether arising under legislation, an agreement or otherwise, which would affect the capital value of the property.

Article 5: Publication of capital values

30. Paragraph (1) provides the Commissioner with the power to publish the capital value of any property to which Part II of the Order applies.
31. Paragraphs (2) and (3) provide that, in the case of a property used partly for the purposes of a private dwelling, the Commissioner may publish only that portion of the capital value which can reasonably be regarded as attributable to the use of the property for the purposes of a private dwelling (“the domestic capital value”).
32. Paragraph (4) allows the Commissioner to publish other information relating to the property as determined by the Department.

Article 6: Publication of list of total published values for each district

33. [Article 6](#) provides for the publication of a list of the total capital values and domestic capital values in each district council area.

Article 7: Revision of capital values, etc., by the Commissioner

34. [Article 7](#) enables the Commissioner to revise any capital value or domestic capital value published under Article 5, any additional information published under that Article and any list published under Article 6. It also enables him to publish the revision.

Article 8: Manner and form of publication

35. This Article provides that the form and manner of publication under Articles 5 to 7 is to be determined by the Department.