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STATUTORY RULES OF NORTHERN IRELAND

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**2007 No. 204**

**The Rate Relief (General) Regulations (Northern Ireland) 2007**

**PART 17**

**Rate Relief Finance**

**Rate relief finance**

**55.**—(1) The Department shall, in respect of each financial year, pay to the Executive a grant towards the expenditure incurred or to be incurred by the Executive in that year by way of payment of rate relief (including, if the Department so determines, an amount towards the cost of administering rate relief).

(2) The amount of the grant under paragraph (1) which is to be paid to the Executive shall be such as the Department shall determine.

(3) A grant under paragraph (1) shall be paid to the Executive at such time and in such manner as the Department may think fit.

**Claims for finance etc.**

**56.**—(1) The Department, unless it otherwise determines, shall not pay a grant under regulation 55 until the Executive has made a claim for it in such form and manner as the Department may determine.

(2) The Department may withhold from the Executive so much of any grant under regulation 55 as it thinks fit until either—

- (a) the Executive has supplied it with prescribed particulars relating to its claim for a grant and complied with prescribed conditions as to records, certificates, audit or otherwise; or
- (b) the Department is satisfied that there is a good reason for the Executive's failure to supply those particulars or comply with those conditions.

(3) If the Executive fails to make a claim for a grant within such period as the Department considers reasonable, the Department may withhold from the Executive such part of the grant as it thinks fit for so long as it thinks fit.

(4) Where the amount of the grant paid to the Executive for any year is found to be incorrect, the amount of the grant payable to it for any subsequent year may be adjusted for the purpose of rectifying that mistake in whole or in part.

**Persons to report on administration**

**57.**—(1) The Department may authorise persons to consider and report to it on the administration by the Executive of rate relief and, in particular, the Executive's performance in the prevention and detection of fraud relating to that relief.

(2) A person may be authorised under paragraph (1) on such terms and for such period as the Department thinks fit.

## **Powers of investigation**

- 58.**—(1) A person authorised under regulation 57—
- (a) has a right of access at all reasonable times to any document relating to the administration of rate relief;
  - (b) is entitled to require from any person holding or accountable for any such document such information and explanation as he thinks necessary; and
  - (c) is entitled, if he thinks it necessary, to require any such person to produce any such document or to attend before him in person to give such information or explanation.
- (2) A person authorised under regulation 57(1) is entitled to require any officer or member of the Executive or any person involved in the administration of rate relief for the Executive—
- (a) to give him such information and explanation relating to the administration of rate relief as he thinks necessary; and
  - (b) if he thinks it necessary, to require any such person to attend before him in person to give the information or explanation.
- (3) A person who without reasonable excuse fails to comply with a requirement under paragraph (1) or (2) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) A person authorised under paragraph (1) may—
- (a) require any document or information which is to be given to him under paragraph (1) or (2) to be given in any form reasonably specified by him; and
  - (b) take copies of any document produced to him.
- (5) In this regulation “document” means anything in which information of any description is recorded.

## **Reports**

- 59.**—(1) A report about the Executive by a person authorised under regulation 57(1) may include recommendations about improvements which could be made by the Executive in its administration of rate relief and, in particular, in the prevention and detection of fraud relating to that relief.
- (2) When the Department receives a report about the Executive from a person authorised under regulation 57(1) it shall send a copy to the Executive.

### Directions by Department

## **Directions**

- 60.**—(1) This regulation applies where—
- (a) a copy of a report has been sent to the Executive under regulation 59(2) (reports);
  - (b) a report has been laid before the Assembly under Article 21(5) of the Housing (Northern Ireland) Order 1981(1); or
  - (c) a copy of a report has been sent to the Executive under regulation 65(7).
- (2) The Department may invite the Executive to consider the report and to submit proposals for—
- (a) improving the Executive’s performance in relation to the prevention and detection of fraud relating to rate relief or otherwise in relation to the administration of that relief; and
  - (b) remedying any failings identified by the report.

(3) After considering the report and any proposals made by the Executive in response to it, the Department may give directions to the Executive as to—

- (a) standards which the Executive is to attain in the prevention and detection of fraud relating to rate relief or otherwise in the administration of that relief; and
- (b) the time within which the standards are to be attained.

(4) When giving directions to the Executive under paragraph (3), the Department may make recommendations to the Executive setting out any course of action which the Department thinks the Executive might take to attain the standards which it is directed to attain.

#### **Information about attainment of standards**

**61.**—(1) Where directions have been given to the Executive under regulation 60(3), the Department may require the Executive to supply to it any information which the Department considers may assist it in deciding—

- (a) whether the Executive has attained the standards which it has been directed to attain; or
- (b) whether the Executive is likely to attain those standards within the time specified in the directions.

(2) Information may be supplied under paragraph (1) in such manner and form as the Department may require.

#### **Enforcement notices**

**62.**—(1) Where directions have been given to the Executive under regulation 60(3) and the Department—

- (a) is not satisfied that the Executive has attained the standards which it has been directed to attain; or
- (b) is not satisfied that the Executive is likely to attain those standards within the time specified in the directions,

the Department may serve on the Executive a written notice under this regulation.

(2) The notice shall—

- (a) identify the directions and state why the Department is not satisfied as mentioned in paragraph (a) or (b) of paragraph (1); and
- (b) require the Executive to submit a written response to the Department within a time specified in the notice.

(3) If any person (other than the Executive) carrying out work relating to the administration of rate relief may be affected by any determination which may be made under regulation 63 (enforcement determination), the Executive shall—

- (a) consult that person before submitting its response; and
- (b) include in its response any relevant observations made by that person.

(4) The Executive's response shall either—

- (a) state that the Executive has attained the standards, or is likely to attain them within the time specified in the directions, and justify that statement; or
- (b) state that the Executive has not attained the standards, or is not likely to attain them within that time, and (if the Executive wishes) give reasons why a determination under regulation 63 should not be made or should not include any particular provision.

(5) The notice may relate to any one or more matters covered by the directions.

(6) The serving of a notice under this regulation relating to any directions or matter does not prevent the serving of further notices under this regulation relating to the same directions or matter.

### **Enforcement determination**

**63.**—(1) Where, after the time specified in the notice under regulation 62, has expired, the Department—

- (a) is not satisfied that the Executive has attained the standards in question; or
- (b) is not satisfied that the Executive is likely to attain those standards within the time specified in the directions,

the Department may make a determination under this regulation.

(2) The determination may be made whether or not the Executive has responded to the notice under regulation 62.

(3) The determination shall be designed to secure the attainment of the standards in question and—

- (a) shall include provision such as is specified in paragraph (4); and
- (b) may also include provision such as is specified in paragraph (5).

(4) The provision referred to in paragraph (3)(a) is provision that the Executive must comply with specified requirements as to inviting, preparing, considering and accepting bids to carry out any work which—

- (a) falls to be carried out in pursuance of the Executive's functions relating to the administration of rate relief; and
- (b) is of a description specified in the determination.

(5) The provision referred to in paragraph (3)(b) is provision of any one or more of the following kinds relating to the work, or any specified category of the work, to which the determination relates—

- (a) provision that it may not be carried out by the Executive;
- (b) provision that it may not be carried out by any person (other than the Executive) who has been carrying it out; and
- (c) provision that any contract made by the Executive with any person for carrying it out shall include terms requiring a level of performance which will secure, or contribute to securing, the attainment of the standards in question.

### **Enforcement determination: Supplementary**

**64.**—(1) The provisions included in a determination, under regulation 63, shall take effect from a date specified in the determination; and different dates may be specified in relation to different provisions.

(2) The making of a determination under regulation 63 in relation to any directions which does not prevent the making of further determinations under that paragraph in relation to the same directions.

(3) The provision included in a determination by virtue of regulation 63(3) may include—

- (a) requirements that the Department be satisfied as to any specified matter; and
- (b) requirements that the Department authorise or consent to any specified matter.

(4) The provision so included may also include provision as to the time at which any contract for the carrying out of work to which the determination relates (and which is not previously discharged) is to be taken to be frustrated by the determination.

(5) A determination under regulation 63 shall have effect in spite of any statutory provision under or by virtue of which the Executive is required or authorised to carry out any work to which the determination relates.

#### **Role of NIAO auditors in relation to rate relief**

**65.**—(1) The Department may request an auditor of the Northern Ireland Audit Office (“NIAO auditor”) to conduct or assist the Department in conducting studies designed to improve economy, efficiency, effectiveness and quality of performance in the discharge by the Executive of functions relating to the administration of rate relief.

(2) In this regulation “study” means a study which a NIAO auditor is requested to conduct, or assist the Department in conducting, under paragraph (1).

(3) If a NIAO auditor requires the Executive or any officer or member of the Executive to supply him or an authorised person with such information as is needed for the purposes of the study, the Executive or officer or member shall supply the information.

(4) If a NIAO auditor requires the Executive to make available for inspection by him or by an authorised person documents which relate to the Executive and are needed for the purposes of the study, the Executive shall make the documents available.

(5) Any information obtained under a requirement under paragraph (3) or (4) may be disclosed by a NIAO auditor to the Department for the purposes of any of its functions which are connected with rate relief.

(6) In paragraphs (3) and (4) “authorised person” means a person authorised by a NIAO auditor for the purposes of this regulation.

(7) A NIAO auditor shall send to the Department a copy of any report of a study; and the Department or a NIAO auditor may send a copy of a report of a study to the Executive.

(8) Any report of a study may be published by the Department.

(9) A NIAO auditor shall not conduct, or assist the Department in conducting, a study unless, before he does so, the Department has made arrangements for the payment of such reasonable amount as may be agreed between it and the auditor in respect of the study.

(10) The Department may supply to a NIAO auditor any information held by it which relates to rate relief and which appears to it to be relevant to the exercise of any function of the auditor.