

2011 No. 36

RATES

**Rates (Unoccupied Hereditaments) Regulations (Northern
Ireland) 2011**

Made - - - - *15th February 2011*

Coming into operation - *1st October 2011*

The Department of Finance and Personnel makes the following Regulations in exercise of the powers conferred by Article 25A(6) of, and paragraph 1(1) to (3) of Schedule 8A to, the Rates (Northern Ireland) Order 1977(a).

Citation and commencement

1. These Regulations may be cited as the Rates (Unoccupied Hereditaments) Regulations (Northern Ireland) 2011 and shall come into operation on 1st October 2011.

Interpretation

2.—(1) In these Regulations—

“the 1989 Order” means the Insolvency (Northern Ireland) Order 1989(b);

“the 2003 Order” means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(c);

“adapted” means suitable for use, whether altered for the purpose or otherwise;

“completion day”, in relation to a hereditament, means a completion day determined under Article 25B of, and Schedule 8B to, the Rates (Northern Ireland) Order 1977(d) in relation to a building which comprises the whole or part of that hereditament;

“public body” means—

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- (a) S.I. 1977/2157 (N.I. 28); Article 25A and Schedule 8A were inserted by Article 4 of, and Schedule 1 to, the Rates (Amendment) (Northern Ireland) Order 2004 (S.I. 2004/703 (N.I. 4)); paragraph 1 of Schedule 8A was amended by Article 22 of the Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)); Article 25A and Schedule 8A were further amended by section 6 of the Rates (Amendment) Act (Northern Ireland) 2009, 2009 c. 8 (N.I.)
- (b) S.I. 1989/2405 (N.I. 19)
- (c) S.I. 2003/431 (N.I. 9)
- (d) Article 25B and Schedule 8B were inserted by Article 5 of, and Schedule 2 to, the Rates (Amendment) (Northern Ireland) Order 2004 and were amended by Article 14 of, and paragraph 8 of Schedule 1 and Schedule 2 to, the Rates (Amendment) Act (Northern Ireland) 2009

- (a) a body established by or under a statutory provision; or
- (b) a department of the Government of the United Kingdom;

“qualifying industrial hereditament” means any hereditament other than a retail hereditament in relation to which all buildings comprised in the hereditament are constructed or adapted—

- (a) in the course of a trade or business; and
- (b) for one or more of the following purposes, or one or more such purposes and one or more purposes ancillary thereto—
 - (i) the manufacture, repair or adaptation of goods or materials;
 - (ii) the working or processing of minerals;
 - (iii) the generation of electricity; and

“retail hereditament” means any hereditament where any building or part of a building comprised in the hereditament is constructed or adapted for the purpose of the retail provision of goods or services on or from the hereditament.

(2) Subject to paragraph (3), where a hereditament which has been unoccupied becomes occupied on any day and becomes unoccupied again on the expiration of a period of less than six weeks beginning with and including that day, then for the purposes of ascertaining whether the hereditament has been continuously unoccupied for a period mentioned in paragraph 1 or 3 of the Schedule, it shall be treated as having been unoccupied on that day and throughout the period.

(3) Paragraph (2) shall not apply to any part of a hereditament in respect of which it appears that, when next in use, it will be used for the purposes of a private dwelling.

(4) For the purposes of paragraphs 1 and 3 of the Schedule, a hereditament which has not previously been occupied shall be treated as becoming unoccupied—

- (a) on the completion day; or
- (b) where sub-paragraph (a) does not apply, on the day on which the hereditament is first shown in a valuation list.

(5) For the purposes of paragraph 2 of the Schedule, a hereditament which has not previously been occupied shall be treated as becoming unoccupied—

- (a) on the completion day; or
- (b) where sub-paragraph (a) does not apply, on the day on which the hereditament is first shown in a valuation list,

except that where a day mentioned in sub-paragraph (a) or (b) is before 1st October 2011, the hereditament shall be treated as becoming unoccupied on 1st October 2011.

Hereditaments in respect of which a person is liable for the unoccupied property rate

3. The class of hereditament prescribed for the purposes of Article 25A(2)(a) of, and paragraph 1(1)(a) of Schedule 8A to, the Rates (Northern Ireland) Order 1977 consists of any hereditament included in a valuation list—

- (a) which consists of a building, or any part of a building, together with any land ordinarily used, or intended for use, for the purposes of that building or part; and
- (b) which does not fall within a class of hereditament described in the Schedule.

Revocation

4. The Non-Domestic Rating (Unoccupied Hereditaments) Regulations (Northern Ireland) 2007^(a) and the Non-Domestic Rating (Unoccupied Hereditaments) (Amendment) Regulations (Northern Ireland) 2010^(b) are revoked.

Sealed with the Official Seal of the Department of Finance and Personnel on 15th February 2011



Brian McClure

A senior officer of the Department of Finance and Personnel

(a) S.R. 2007 No. 119 as amended by S.R. 2010 No. 37
(b) S.R. 2010 No. 37

SCHEDULE Regulations 2(2), (4) and (5) and 3(b)

**Classes of hereditament not prescribed for the purposes of paragraph
1(1)(a) of Schedule 8A to the Rates (Northern Ireland) Order 1977**

1.—(1) Subject to regulation 2(2) and sub-paragraph (2), the hereditament is included in the NAV list and has been unoccupied for a continuous period not exceeding three months.

(2) A hereditament shall be excluded from the class of hereditament described in sub-paragraph (1) to the extent (if any) to which it appears that, when next in use, it will be used for the purposes of a private dwelling.

2.—(1) Subject to sub-paragraph (3)—

(a) the hereditament—

- (i) was first included in a valuation list after 31st March 2007;
- (ii) is included in the capital value list;
- (iii) has not previously been occupied; and
- (iv) has been unoccupied for a continuous period not exceeding twelve months or, in the case of a hereditament which is treated, under regulation 2(5), as having become unoccupied before 1st April 2012, eighteen months; and

(b) the person entitled to possession of the hereditament is a developer.

(2) In this paragraph—

“developer” means a person who has undertaken, arranged or carried out development work and who is also the first owner of the hereditament;

“development work” means any building operations which results in a new building; and

“owner” means any person for the time being receiving or entitled to receive, on his own account, the rack rent of the hereditament in connection with which the word is used or who, if the hereditament were let at a rack rent, would so receive or be entitled to receive that rent.

(3) A hereditament, other than a private garage or private storage premises, shall be excluded from the class of hereditament described in sub-paragraph (1) to the extent (if any) to which it appears that, when next in use, it will be used other than for the purposes of a private dwelling.

3.—(1) Subject to regulation 2(2) and sub-paragraph (2), the hereditament is included in the NAV list, has been unoccupied for a continuous period not exceeding twelve months and the person entitled to possession of the hereditament throughout that period is a person which—

- (a) is a company limited by guarantee within the meaning of Part 1 of the Companies Act 2006(a);
- (b) is funded in respect of its capital costs, in whole or in part, by a public body; and
- (c) provides accommodation and support services for a trade or business.

(2) A hereditament shall be excluded from the class of hereditament described in sub-paragraph (1) to the extent (if any) to which it appears that, when next in use, it will be used for the purposes of a private dwelling.

4. The hereditament is a qualifying industrial hereditament.

5. The person entitled to possession of the hereditament is prohibited by law from occupying it or allowing it to be occupied.

(a) 2006 c. 46

6. The hereditament is kept vacant by reason of action taken by or on behalf of any public body with a view to prohibiting its occupation or to acquiring it.

7. Any building or part of a building comprising the hereditament or part of the hereditament is included in a list compiled under Article 42 of the Planning (Northern Ireland) Order 1991**(a)** or is the subject of a building preservation notice within the meaning of Article 42A of that Order.

8. Any building or part of a building comprising the hereditament or part of the hereditament is included in the Schedule of monuments compiled under Article 3(1) of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995**(b)**.

9. The rateable net annual value of the hereditament is less than £2,000.

10. The rateable capital value of the hereditament is less than £20,000.

11. The person entitled to possession of the hereditament is so entitled only in his capacity as the personal representative of a deceased person.

12. There subsists in respect of the estate of the person entitled to possession of the hereditament a bankruptcy order within the meaning of Parts I and VIII to X of the 1989 Order.

13. The person entitled to possession of the hereditament is so entitled in his capacity as a trustee under a deed of arrangement to which Chapter 1 of Part VIII of the 1989 Order applies.

14. The person entitled to possession of the hereditament is—

- (a) a company in administration within the meaning of paragraph 2 of Schedule B1 to the 1989 Order**(c)** or is subject to an administration order made under the former administration provisions within the meaning of Article 2 of the Insolvency (2005 Order) (Transitional Provisions and Savings) Order (Northern Ireland) 2006**(d)**; or
- (b) a company which is subject to a winding-up order made under the 1989 Order or which is being wound up voluntarily under that Order.

15. The person entitled to possession of the hereditament is so entitled in his capacity as liquidator by virtue of an order made under Article 98 or Article 123 of the 1989 Order.

16. The person entitled to possession of the hereditament is the Foyle, Carlingford and Irish Lights Commission.

17.—(1) Subject to sub-paragraphs (4) and (5)—

- (a) the hereditament is included in the capital value list; and
- (b) the person entitled to possession of the hereditament or, if there is more than one such person, each such person previously occupied the hereditament, and when he last did so, occupied it as his only or principal residence; and
- (c) that person—
 - (i) has his only or principal residence in a hospital, nursing home or residential care home; or
 - (ii) is detained in a prison, a hospital or any other place by virtue of an order or award to which sub-paragraph (2) applies; or
 - (iii) is imprisoned under, or in service custody for the purposes of the Armed Forces Act 2006**(e)** and, where a person is in service custody, the custody forms part of a continuous period exceeding 48 hours; or

(a) S.I. 1991/1220 (N.I. 11); Article 42A was inserted by Article 25 of the Planning (Amendment) (Northern Ireland) Order 2003 (S.I. 2003/430 (N.I. 8))

(b) S.I. 1995/1625 (N.I. 9)

(c) Schedule B1 was inserted by Article 3(2) of, and Schedule 1 to, the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10))

(d) S.R. 2006 No. 22

(e) 2006 c. 52

- (iv) is detained under paragraph 2 of Schedule 3 to the Immigration Act 1971^(a) (deportation); or
- (v) is detained under the Mental Health (Northern Ireland) Order 1986^(b) or corresponding legislation in Great Britain or the Republic of Ireland.

(2) This sub-paragraph applies to—

- (a) an order of a court in the United Kingdom or the Republic of Ireland;
- (b) an order or award (whether or not of a court) made (anywhere) in proceedings in respect of a service offence within the meaning of the Armed Forces Act 2006.

(3) If a person—

- (a) is temporarily discharged under section 24 of the Prison Act (Northern Ireland) 1953^(c), temporarily released under rules under section 13 of that Act or temporarily discharged or temporarily released under corresponding legislation in Great Britain or the Republic of Ireland; or
- (b) is temporarily released under rules under section 300 of the Armed Forces Act 2006,

he shall, for the purposes of sub-paragraph (1), be treated as detained or, as the case may be, imprisoned.

(4) Sub-paragraph (1) does not apply where the person is detained under Article 92 of the Magistrates' Courts (Northern Ireland) Order 1981^(d) or corresponding legislation in Great Britain or the Republic of Ireland for default in payment of a fine.

(5) A hereditament shall be excluded from the class of hereditament described in sub-paragraph (1) to the extent (if any) to which it appears that, when next in use, it will be used other than for the purposes of a private dwelling.

(6) In this paragraph—

“hospital”, except in sub-paragraph (1)(c)(ii), has the same meaning as in Article 2 of the 2003 Order;

“nursing home” has the same meaning as in Article 11 of the 2003 Order;

“order” includes a sentence, direction, warrant or other means of giving effect to a decision; and

“residential care home” has the same meaning as in Article 10 of the 2003 Order.

18. The hereditament is a hereditament which is the subject of an agreement made with the Department under Article 21 of the Rates (Northern Ireland) Order 1977.

(a) 1971 c. 77
(b) S.I. 1986/595 (N.I. 4)
(c) 1953 c. 18 (N.I.)
(d) S.I. 1981/1675 (N.I. 26)

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under Article 25A of the Rates (Northern Ireland) Order 1977, as amended, (“the 1977 Order”), rates are payable on unoccupied properties that fall within a class prescribed by Regulations. The Non-Domestic Rating (Unoccupied Hereditaments) Regulations (Northern Ireland) 2007, (S.R. 2007 No. 119 as amended by S.R. 2010 No. 37) (“the 2007 Regulations”) prescribed a class of property consisting of all non-domestic buildings or parts of buildings except those listed in the Schedule to those Regulations.

These Regulations revoke and replace the 2007 Regulations to prescribe domestic buildings and parts of buildings as well as non-domestic buildings or parts of buildings for the purposes of Article 25A of the 1977 Order. This means that unoccupied domestic property becomes rateable.

The exceptions to the prescription are set out in the Schedule to these Regulations.

By virtue of Article 25A of, and Schedule 8A to, the 1977 Order rates are payable on an unoccupied domestic property at the same level as if the property was occupied. Rates are payable on an unoccupied non-domestic property at 50% of the amount which would be payable if the property was occupied.

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