
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Rates (Amendment) (Northern Ireland) Order 2006

PART I
INTRODUCTORY

Title and commencement

- 1.—(1) This Order may be cited as the Rates (Amendment) (Northern Ireland) Order 2006.
- (2) This Article and Article 2 shall come into operation on the expiration of 7 days from the day on which this Order is made.
- (3) The remaining provisions of this Order shall come into operation on such day or days as the Department may by order appoint.
- (4) The Department shall not make an order under paragraph (3) in respect of Article 4 unless a matter falling within paragraph 11 of Schedule 3 to the Northern Ireland Act 1998 (c. 47) has become a transferred matter within the meaning of that Act.

Interpretation

- 2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.
- (2) In this Order—
- “the Department” means the Department of Finance and Personnel;
- “the principal Order” means the Rates (Northern Ireland) Order 1977 (NI 28);
- “statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

PART II
GENERAL

Regional rate and district rate

Regional rate and district rate

3. In Article 6 of the principal Order (regional rate and district rate), for paragraph (3) there shall be substituted the following paragraphs—
- “(3) Subject to the provisions of this Order, a rate—
- (a) shall be made and levied at an amount in the pound—
- (i) in the case of a regional rate, on the rateable values of every hereditament;

- (ii) in the case of a district rate, on the rateable values of every hereditament in the district; and
 - (b) shall, subject to paragraphs (4) and (5), be made and levied in accordance with the relevant valuation lists.
- (4) In making the rate, the Department or the district council may disregard any alterations made in a valuation list after such date as the Department or the district council considers convenient for the purpose of fixing the amount in the pound of the rate.
- (5) Where the rate is for a year beginning with the date on which a new valuation list is to come into force and is made before that date, the rate shall be made by reference to the new list (so far as it replaces an existing list).
- (6) Different regional and district rates may be made and levied on the rateable net annual values of hereditaments and the rateable capital values of hereditaments in accordance with prescribed rules.”.

Police purposes part of the regional rate

4. In Article 7 of the principal Order (making of rates), after paragraph (5) there shall be added the following paragraphs—

“(6) Where an order under paragraph (1) specifies an amount in the pound at which a regional rate is to be levied on the rateable capital value of hereditaments, the order shall specify the police purposes part.

(7) In paragraph (6) “the police purposes part” means an estimate of how much (if any) of that amount will be applied towards expenditure for any police purposes within the meaning of the Police (Northern Ireland) Act 2000.”.

Rateable values

Rateable values

5.—(1) For Article 17 of the principal Order (ascertainment of rateable value) and the immediately preceding cross-heading there shall be substituted the following—

“Rateable values

Rateable values

17.—(1) For the purposes of this Order the rateable values of a hereditament are—

- (a) its rateable net annual value (if any); and
- (b) its rateable capital value (if any).

(2) For the purposes of this Order the rateable values of a hereditament shall be ascertained in accordance with the provisions of Schedule 7.”.

(2) In Schedule 7 to the principal Order (rateable value of hereditaments), for paragraph 1 there shall be substituted the following paragraph—

“1. Except as provided to the contrary in this Schedule—

- (a) the rateable net annual value of any hereditament shall be its net annual value (if any); and
- (b) the rateable capital value of any hereditament shall be its capital value (if any).”.

Liability to be rated according to rateable values

6. For Article 18 of the principal Order (liability to be rated in respect of hereditaments) there shall be substituted the following Article—

“Liability to be rated in respect of hereditaments

18.—(1) Subject to the provisions of this Order, every occupier of a hereditament which is included in the valuation lists shall be chargeable to rates in respect of the hereditament according to its rateable values.

(2) In respect of a specified hereditament which has a rateable capital value regulations may—

- (a) specify, or provide for there to be determined under the regulations—
 - (i) its maximum capital value;
 - (ii) its minimum capital value;
- (b) provide that a person shall be liable in respect of its—
 - (i) maximum capital value instead of its rateable capital value, if its rateable capital value exceeds its maximum capital value;
 - (ii) minimum capital value instead of its rateable capital value, if its rateable capital value is less than its minimum capital value;
- (c) provide that references in specified provisions to its capital value or to its rateable capital value are to be construed as references to its maximum capital value or its minimum capital value as the case may be.

(3) In paragraph (2)—

“specified hereditament” means a hereditament which falls within a class specified in regulations under that paragraph;

“specified provisions” means provisions of, or made under, this Order specified in regulations under that paragraph.”.

Liability to be rated in respect of hereditaments owned by the Housing Executive, etc.

7. After Article 23 of the principal Order (liability of occupier for rates unpaid by owner) there shall be inserted the following Article—

“Liability to be rated in respect of hereditaments owned by the Housing Executive, etc.

23A.—(1) Regulations may provide that a person shall be chargeable to rates in respect of a hereditament in the social sector as if its rateable capital value were such figure as may be determined by the Department (its “social sector value”).

(2) The Department shall determine the social sector value so as to ensure that the amount of rates chargeable is such proportion of any rent payable to the owner as the Department considers appropriate.

(3) In this Article—

“hereditament in the social sector” means a hereditament which—

- (a) is wholly owned by the Northern Ireland Housing Executive or such registered housing associations or other bodies as may be prescribed; and
- (b) is not a hereditament of a prescribed description;

“registered”, in relation to a housing association, means registered in the register maintained under Part II of the [Housing \(Northern Ireland\) Order 1992 \(NI 15\)](#).

(4) Regulations may provide—

- (a) for such references in this Order to capital value or to rateable capital value as may be prescribed to be construed as references to social sector value in relation to a hereditament in the social sector; and
- (b) for Articles 10 and 15(1)(b) to have effect subject to the regulations.”.

Basis of valuation

8.—(1) In Article 39 of the principal Order (basis of valuation), for paragraph (1) there shall be substituted the following paragraphs—

“(1) For the purposes of this Order every hereditament shall, except as provided by paragraphs (1A) to (1C), be valued upon an estimate of its net annual value.

(1A) For the purposes of this Order the following hereditaments shall be valued upon an estimate of their capital value—

- (a) any dwelling-house;
- (b) any private garage;
- (c) any private storage premises.

(1B) For the purposes of this Order, every hereditament which, though not a dwelling-house, is used partly for the purposes of a private dwelling shall be valued upon an estimate both of its net annual value and of its capital value.

(1C) For the purposes of paragraphs (1A) and (1B), any hereditament—

- (a) which is not in use; and
- (b) which the Commissioner or the district valuer considers will, when next in use, fall within any sub-paragraph of paragraph (1A) or within paragraph (1B),

shall be deemed to be in use and to fall within that sub-paragraph of paragraph (1A) or, as the case may be, within paragraph (1B).”.

(2) In Part I of Schedule 12 to the principal Order (basis of valuation), after paragraph 6 there shall be inserted the following paragraphs—

“Capital value – general rule

7.—(1) Subject to the provisions of this Schedule, for the purposes of this Order the capital value of a hereditament shall be the amount which, on the assumptions mentioned in paragraphs 9 to 15, the hereditament might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant capital valuation date.

(2) In estimating the capital value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the capital values in that valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised.

(3) The assumptions mentioned in paragraphs 9 to 15 shall apply for the purposes of determining whether one hereditament is a comparable hereditament in the same state and circumstances as another with the omission of sub-paragraphs (2) and (3) of paragraph 12.

(4) In sub-paragraph (1) “relevant capital valuation date” means 1st January 2005 or such date as the Department may substitute by order made subject to negative resolution for the purposes of a new capital value list.

Capital value – the assumptions

8. In this paragraph and paragraphs 9 to 15—

“development” has the meaning given by Article 2(2) of the Planning Order;

“flat”, in relation to a building, means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building;

“incumbrance” means any incumbrance, whether capable of being removed by the seller or not, except service charges;

“permitted development” means development for which planning permission is not required or for which no application for planning permission is required;

“Planning Order” means the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#);

“planning permission” has the meaning given by Article 2(2) of the Planning Order;

“rentcharge” has the meaning given by section 27(1) of the Ground Rents Act (Northern Ireland) 2001 (c. 5).

9. The sale is with vacant possession.

10. The estate sold is the fee simple absolute or, in the case of a flat, a lease for 99 years at a nominal rent.

11. The hereditament is sold free from any rentcharge or other incumbrance.

12.—(1) The hereditament is in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality.

(2) The hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date.

(3) In sub-paragraph (2) “relevant date” means 1st April 2007 or such date as the Department may substitute by order made subject to negative resolution for the purposes of a new capital value list.

13. The hereditament has no development value other than value attributable to permitted development.

14.—(1) A hereditament falling (or deemed to fall) within any sub-paragraph of Article 39(1A) will always fall within that sub-paragraph.

(2) A hereditament falling (or deemed to fall) within paragraph (1B) of Article 39 will always fall within that paragraph.

15.—(1) There has been no relevant contravention of—

(a) any statutory provision; or

(b) any requirement or obligation, whether arising under a statutory provision, an agreement or otherwise.

(2) In sub-paragraph (1) “relevant contravention” means a contravention which would affect the capital value of the hereditament.

Hereditaments used partly for the purposes of a private dwelling

16.—(1) This paragraph applies where a hereditament is required to be valued upon an estimate both of its net annual value and of its capital value.

- (2) Where this paragraph applies—
- (a) the net annual value of the hereditament shall be that portion of the rent mentioned in paragraph 1 which can reasonably be regarded as attributable to the use of the hereditament other than for the purposes of a private dwelling;
 - (b) the capital value of the hereditament shall be that portion of the amount mentioned in paragraph 7 which can reasonably be regarded as attributable to the use of the hereditament for the purposes of a private dwelling.”.

Payment by instalments

Right to pay rates by instalments

- 9.** The following provisions of Article 29 of the principal Order (right to pay rates on dwellings by instalments) shall cease to have effect—
- (a) in paragraph (1) the words “Subject to paragraph (1A)”;
 - (b) paragraph (1A) (right to pay rates by instalments not available in respect of certain hereditaments);
 - (c) in the heading to Article 29, the words “on dwellings”.

Deferred payment of rates

Agreements for deferred payment of rates on dwellings

- 10.**—(1) After Article 29 of the principal Order (right to pay rates on dwellings by instalments) there shall be inserted the following Article—

“Agreements for deferred payment of rates on dwellings

29A.—(1) Regulations may provide that the Department may enter into an agreement with the occupier of a hereditament for the payment of rates in respect of the capital value of the hereditament to be deferred, if—

- (a) he is the owner of the hereditament;
- (b) he has attained pensionable age or he is the surviving spouse or surviving civil partner of a person who has made an agreement in respect of the same hereditament;
- (c) the hereditament either is a dwelling-house or, though not a dwelling-house, is used partly for the purposes of a private dwelling; and
- (d) prescribed conditions are satisfied.

(2) Regulations may contain such provision as the Department considers necessary or expedient for the purposes of this Article, including provision—

- (a) as to the terms of the agreement (including terms as to repayment, the payment of interest and other charges and as to the termination of the agreement and extending the period of the agreement);
- (b) for the amount outstanding under the agreement to be deemed to be a statutory charge (within the meaning of the Land Registration Act (Northern Ireland) 1970);
- (c) for an agreement to transfer the amount outstanding under an agreement made in respect of the same hereditament by the deceased spouse or civil partner of the occupier;
- (d) for the meaning of “owner” and “pensionable age” in paragraph (1).”.

(2) In Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (c. 18) (matters which require to be registered in the Statutory Charges Register), after paragraph 47 there shall be added the following paragraph—

“48. Any agreement under regulations under Article 29A of the Rates (Northern Ireland) Order 1977.”.

PART III VALUATION LISTS

General provisions as to valuation lists

11.—(1) In Article 40 of the principal Order (general provisions as to valuation lists), for paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) The Commissioner shall maintain the following lists prepared, and from time to time altered, by him in accordance with this Part—

- (a) a list of hereditaments required to be valued upon an estimate of their net annual value (in this Order referred to as a NAV list);
- (b) a list of hereditaments required to be valued upon an estimate of their capital value (in this Order referred to as a capital value list).

(2) There shall be entered in a NAV list in respect of each hereditament which is required to be valued as mentioned in paragraph (1)(a)—

- (a) its net annual value; and
- (b) such other particulars as the Department may determine.

(2A) There shall be entered in a capital value list in respect of each hereditament which is required to be valued as mentioned in paragraph (1)(b)—

- (a) its capital value; and
- (b) such other particulars as the Department may determine.

(2B) Paragraphs (2) and (2A) are without prejudice to the provisions of this Part and subject to any other statutory provision.”.

(2) Article 40 of the principal Order shall be further amended as follows—

- (a) in paragraph (4), after the words “net annual value” there shall be inserted the words “or the capital value”;
- (b) in paragraph (5), for the words “valuation list” in both places where they occur there shall be substituted the words “NAV list or capital value list”;
- (c) in paragraph (7)—
 - (i) for the word “list” in each place where it occurs there shall be substituted the word “lists”;
 - (ii) after “6(3)(b),” there shall be inserted “(4) or (5),”;
 - (iii) for the word “values” in the first place where it occurs there shall be substituted the words “net annual values or capital values”;
- (d) in paragraph (8)—
 - (i) for “6(3)(b)(i)” there shall be substituted “6(4)”;
 - (ii) for the word “list” in the first place where it occurs there shall be substituted the word “lists”;

(iii) for the words “that list” in both places where they occur there shall be substituted the words “those lists”.

(3) In Article 2(2) of the principal Order (interpretation)—

(a) after the definition of “building” there shall be inserted the following definitions—

““capital value” shall be construed in accordance with Article 39;

“capital value list” has the meaning given by Article 40(1)(b);”;

(b) after the definition of “modify” there shall be inserted the following definition—

““NAV list” has the meaning given by Article 40(1)(a);”;

(c) in the definition of “new valuation list”, for the words from “a valuation list” to the end there shall be substituted the words “a new valuation list published under Article 45(1)”;

(d) in the definition of “valuation list”, for the words from “has the meaning” to the end there shall be substituted the words “means a capital value list or a NAV list”;

(e) in the definition of “the valuation list”, for “list” in the second place where it occurs there shall be substituted the word “lists”.

(4) In Article 2(4) of the principal Order, for the word “the” in the first, third and fifth places where it occurs there shall be substituted the word “a”.

(5) Subject to paragraph (6), the valuation list in force immediately before the commencement of paragraph (1) shall continue in force as a NAV list under Article 40(1)(a) of the principal Order (until it is superseded as mentioned in Article 40(5) of that Order) so far as it relates to hereditaments required to be valued upon an estimate of their net annual value.

(6) Where, immediately before the commencement of paragraph (1), an apportionment under Article 44(2) of the principal Order is shown in that list in respect of a hereditament, the value shown as apportioned to the use of the hereditament for purposes other than the purposes of a private dwelling shall be deemed to be the net annual value of the hereditament shown in that list as continued in force under paragraph (5) (subject to any alteration of that list).

New valuation lists

12.—(1) Article 45 of the principal Order (new valuation lists) shall be amended as follows.

(2) For paragraph (1) (preparation and issue of new valuation lists) there shall be substituted the following paragraph—

“(1) The Department may require the Commissioner to prepare and publish a new valuation list containing a general revaluation of such hereditaments as the Department may determine.”.

(3) In paragraph (2) (commencement of new valuation lists), for the word “issued” there shall be substituted the word “published”.

(4) For paragraph (3) (regulations with respect to new valuation lists) there shall be substituted the following paragraphs—

“(3) The manner, form and date of publication of a new valuation list shall be determined by the Department.

(3A) When the Commissioner publishes a new valuation list, he shall—

(a) send a certified copy of the list—

(i) to the Department; and

(ii) to each district council; and

(b) make the list available for inspection by the public in electronic form.”.

(5) In paragraph (4) (references to the valuation list), for the word “the” there shall be substituted the word “a”.

(6) For paragraph (5) (alteration of new valuation list before it comes into force) there shall be substituted the following paragraph—

“(5) The Commissioner may alter, and the district valuer may cause to be altered, a new valuation list in relation to any hereditament after the list has been published but before it comes into force and the Commissioner or, as the case may be, the district valuer shall serve a certificate showing any such alteration on—

- (a) the Department;
- (b) the occupier of the hereditament; and
- (c) the district council or any water undertaker or sewerage undertaker, if the council or undertaker so requests.”.

(7) In paragraph (10) (power to make changes before issue of new valuation list), for the words “issue of the” there shall be substituted the words “publication of a”.

Access to valuation lists

13. For Article 46 of the principal Order (deposit and inspection of copies of valuation list) there shall be substituted the following Article—

“Access to valuation lists

46.—(1) The Commissioner shall take such steps as he considers appropriate to notify the public of the publication of a new valuation list.

(2) The Department and each district council shall arrange for facilities to be available at any reasonable time for the public to have access to the valuation lists in electronic form.

(3) After the publication of a new valuation list, the Department and each district council shall take such steps as they consider appropriate to notify the public of arrangements made by them under paragraph (2).

(4) Any person may require the Department or a district council to provide him with a copy of any part of a valuation list, in hard copy or in electronic form, on payment of such fee (if any) as the Department or the district council may determine.

(5) The fee for any such copy must not exceed the administrative cost of providing it.”.

PART IV

RELIEFS AND EXEMPTIONS ETC.

Rate relief

Rate relief scheme

14. After Article 30 of the principal Order (discount on rates on dwellings) there shall be inserted the following Article—

“Rate relief in respect of dwellings

30A.—(1) Regulations may make a scheme (the “rate relief scheme”) providing that, in cases specified in the scheme, the amount which, apart from this Article, would be

payable on account of a rate in respect of a dwelling-house shall for each year be reduced in accordance with the scheme.

(2) Regulations may make such provision as the Department considers necessary or expedient for the purposes of this Article.

(3) Regulations may include—

- (a) provision for purposes corresponding to those of any statutory provision which has any application in relation to housing benefit;
- (b) provision applying any such statutory provision with modifications;
- (c) provision creating offences and penalties.

(4) Nothing in paragraph (3) shall affect the generality of paragraph (2).

(5) In this Article—

“housing benefit” means housing benefit provided by virtue of a scheme under section 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);

“rate in respect of a dwelling-house” includes a rate in respect of the rateable capital value of a hereditament which is used partly for the purposes of a private dwelling;

“reduced” includes reduce to nothing.”.

Persons under 18 and persons in education and training or leaving care

Persons under 18 and persons in education and training or leaving care

15.—(1) After Article 30A of the principal Order (inserted by Article 14) there shall be inserted the following Article—

“Dwellings occupied by persons under 18 and persons in education and training or leaving care

30B.—(1) Regulations may provide that, subject to the condition in paragraph (2), a person (“A”) shall not be chargeable to rates in respect of a hereditament for such periods as may be prescribed when—

- (a) the hereditament is used wholly for the purposes of a private dwelling or falls within a prescribed class; and
- (b) every occupier of it qualifies for rate relief under this Article and, except in prescribed cases, occupies the hereditament as his only or principal residence.

(2) The condition referred to in paragraph (1) is that, where A receives payments from other persons in respect of their occupation of the hereditament, it appears to the Department that the amount of rates which is not chargeable to A and is attributable to their occupation of it will be applied for the benefit of those other persons.

(3) A person qualifies for rate relief under this Article if—

- (a) he—
 - (i) is under the age of 18; or
 - (ii) satisfies such conditions relating to education or training or to leaving care as may be prescribed; and
- (b) complies with such requirements as may be prescribed.

(4) A person shall be regarded for the purposes of this Article as occupying a hereditament as his only or principal residence if he resides there during such periods as may be prescribed.

(5) Regulations may provide that—

- (a) a person shall not be chargeable to rates by virtue of this Article only if an application is made (by him or another person) to the Department containing such information as the Department may reasonably require;
- (b) a person aggrieved by a decision of the Department under the regulations may—
 - (i) require the Department to review its decision; and
 - (ii) appeal to the Valuation Tribunal;
- (c) the Department or any person aggrieved by a decision of the Valuation Tribunal on an appeal by virtue of sub-paragraph (b) as being erroneous on a point of law may require the Valuation Tribunal to state and sign a case for the Court of Appeal;
- (d) where an occupier of a hereditament has parental responsibility for another occupier of the hereditament, that other occupier need not occupy the hereditament as his only or principal residence.

(6) In paragraph (5)(d) “parental responsibility” has the same meaning as in the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#).”.

(2) In Article 42 of the principal Order (distinguishment in valuation list of certain other hereditaments exempted from rates), at the end there shall be added the following paragraphs—

“(2A) Regulations may provide that, subject to the condition in paragraph (2B), there shall be distinguished in the NAV list as wholly exempt from rates any hereditament which—

- (a) comprises a hall of residence provided predominantly for the accommodation of persons who satisfy prescribed conditions as to education or training; and
- (b) is—
 - (i) owned or managed by a prescribed body; or
 - (ii) the subject of an agreement allowing such a body to nominate the majority of the persons who are to occupy all the accommodation so provided.

(2B) The condition referred to in paragraph (2A) is that it appears to the Commissioner or the district valuer that the amount of rates which would but for the regulations be chargeable in respect of the hereditament, less reasonable administrative costs, will be applied for the benefit of persons accommodated there who satisfy prescribed conditions as to education or training.”.

Persons with a disability

“Disability”

16.—(1) Article 2 of the principal Order (interpretation) shall be amended as follows.

(2) In paragraph (2), for the definition of “disabled person” there shall be substituted the following definition—

““disability” shall be construed in accordance with paragraph (2A);”.

(3) After paragraph (2) there shall be inserted the following paragraph—

“(2A) For the purposes of this Order a person has a disability if he—

- (a) is substantially and permanently disabled (whether by illness, injury, congenital deformity or otherwise); or

- (b) suffers from mental disorder within the meaning of the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#).”.

Rate rebates for certain hereditaments with special facilities for persons with a disability

17.—(1) Article 31A of the principal Order (rate rebates for certain hereditaments with special facilities for persons with a disability) shall have effect as follows.

(2) In paragraph (1), for “, (8) and (11)” there shall be substituted “and (8)”.

(3) For paragraphs (2) and (3) there shall be substituted the following paragraphs—

“(2) This Article applies to—

(a) a hereditament in which there is a facility which is required for meeting the needs of a person who resides in the hereditament and has a disability, including a facility of either of the following descriptions—

(i) a room, other than a kitchen, bathroom or lavatory, which is wholly or mainly used (whether for providing therapy or for other purposes) by such a person; or

(ii) an additional kitchen, bathroom or lavatory; and

(b) a hereditament in which there is sufficient floor space to permit the use of a wheelchair used by and required for meeting the needs of a person who resides in the hereditament and has a disability.

(3) In paragraph (2)—

(a) references to a person who resides in a hereditament include references to a person who is usually resident there; and

(b) subject to paragraph (3A), references to a facility or a wheelchair being required for meeting the needs of a person who has a disability are references to its being essential or of major importance to that person’s well-being by reason of the nature and extent of the disability.

(3A) A wheelchair is not required for meeting a person’s needs if he does not need to use it within the living accommodation comprising or included in the hereditament.”.

(4) In paragraph (4), for the words “disabled person” in both places where they occur there shall be substituted the words “person with a disability”.

(5) For paragraphs (10) and (11) (amount of rebate) there shall be substituted the following paragraph—

“(10) 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 to 25 per cent. of its rateable capital value.”.

(6) Paragraph (11) shall be omitted.

(7) After paragraph (11) there shall be inserted the following paragraph—

“(11A) If the Department decides that an applicant for a rebate is not entitled to a rebate, it shall serve notice of its decision on the applicant.”.

(8) For paragraph (12) there shall be substituted the following paragraphs—

“(12) Any person who is aggrieved by a decision of the Department under paragraph (11A) may, within twenty-eight days of the service on him of a notice under that paragraph, apply to the Department for a review by the Department of its decision.

(12A) The Department shall serve on that person a notice of the result of the review.

(12B) If that person is dissatisfied with the result of the review, he may appeal to the Valuation Tribunal.

(12C) The Department or any person aggrieved by a decision of the Valuation Tribunal under paragraph (12B) as being erroneous on a point of law may require the Valuation Tribunal to state and sign a case for the Court of Appeal.”.

(9) After paragraph (13) there shall be added the following paragraph—

“(14) Where the person entitled to a rebate under this Article is also entitled to a rebate under Article 30A in respect of the same hereditament and period, a rate relief scheme under that Article 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.”.

(10) In the heading to the Article, for the words “the disabled” there shall be substituted the words “persons with a disability”.

(11) Where Article 31A applied to a hereditament by virtue of a person’s needs immediately before the commencement of paragraph (3), that Article shall continue to apply to that hereditament for so long as it would, but for that paragraph, have continued by virtue of that person’s needs to do so.

(12) Where the amount of a rebate granted under Article 31A not more than twelve months before the commencement of this paragraph in respect of a relevant hereditament by virtue of the needs of a person was a percentage greater than 25 per cent. of the relevant amount, paragraph (10) of that Article (as substituted by this Article) shall have effect, in relation to a rebate in respect of that hereditament by virtue of the needs of that person, as if for the reference to 25 per cent. there were substituted a reference to that greater percentage.

(13) In paragraph (12)—

“relevant amount”, in relation to a rebate granted as mentioned in that paragraph, means the amount of rates which would but for Article 31A have been chargeable—

- (a) in respect of the hereditament if it was a dwelling-house or a hereditament described in Article 31A(2)(c)(ii);
- (b) in any other case, in respect of the part of the net annual value of the hereditament apportioned to the use of the hereditament for the purposes of a private dwelling;

“relevant hereditament” means a dwelling-house or a hereditament described in Article 31A(2)(c)(ii) or used partly for the purposes of a private dwelling;

references in this paragraph to Article 31A(2)(c)(ii) being references to Article 31A(2)(c)(ii) as it had effect immediately before the commencement of paragraph (3) of this Article.

Transitional relief

Transitional rate relief

18.—(1) Article 33A of the principal Order (transitional rate relief) shall be amended as follows.

(2) In paragraph (1)—

- (a) for the words from the beginning to “of the new valuation list,” there shall be substituted the words “Where this Article applies,”; and
- (b) in sub-paragraph (b)(ii), for the words “any such difference in the net annual value” there shall be substituted the words “the new net annual value or the new capital value”.

(3) For paragraph (2) there shall be substituted the following paragraphs—

“(2) This Article applies where, on the coming into force of a new valuation list—

- (a) a new net annual value; or
- (b) a new capital value,

is ascribed to a specified hereditament in that list.

(3) In this Article—

“a new capital value”, in relation to a specified hereditament, means—

- (a) a capital value which differs from the capital value ascribed to the hereditament in an old list;
- (b) a capital value where no capital value was ascribed to the hereditament in an old list;

“new net annual value”, in relation to a specified hereditament, means—

- (a) a net annual value which differs from the net annual value ascribed to the hereditament in an old list;
- (b) a net annual value where no net annual value was ascribed to the hereditament in an old list;

“old list” means a valuation list in force immediately before the coming into force of the new valuation list referred to in paragraph (2) (including a valuation list which continues to have effect thereafter);

“specified hereditament” means a hereditament of such a class as may be specified in an order under paragraph (1).”.

Charitable exemptions

Extension of exemption relating to sale of goods donated to a charity

19. In Article 41 of the principal Order (distinguishment in valuation list of hereditaments used for public, charitable or certain other purposes), for paragraph (5) (hereditaments treated as used for charitable purposes to the extent used for sale of goods donated to a charity) there shall be substituted the following paragraphs—

“(5) Notwithstanding anything in paragraph (4) and without prejudice to the generality of paragraph (2)(c)(ii), a hereditament shall be treated as used for charitable purposes—

- (a) to the extent that it is used for the sale of goods donated to a charity, and
- (b) if it is mainly used for the sale of goods donated to a charity, to the extent that it is used for the sale of other goods if they are of a description specified in an order made by the Department,

so long as the proceeds of the sale of the goods mentioned in sub-paragraph (a) (after any deduction of expenses) are applied for the purposes of a charity.

(5A) The Department shall not make an order under paragraph (5)(b) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.”.

Extension of charitable exemption for clergy residences

20.—(1) Paragraph (8) of Article 41 of the principal Order (exemption for clergy residences if an interest in the hereditament belongs to, or to trustees for, a religious body) shall be amended as follows.

(2) The words “an interest in which belongs to, or to trustees for, a religious body and” shall cease to have effect.

(3) In sub-paragraph (a), the words “(in right of that interest)” shall cease to have effect.

(4) In sub-paragraph (b), for the words “(in right of that interest)” there shall be substituted the words “, in right of an interest which belongs to, or to trustees for, a religious body.”.

Unoccupied hereditaments

Power to prescribe exemption where hereditament has both a capital value and a net annual value

21. In Article 25A of the principal Order (liability to be rated in respect of certain unoccupied hereditaments), after paragraph (3) there shall be inserted the following paragraph—

“(3A) Regulations may provide that where a hereditament has both a capital value and a net annual value, a person shall not be chargeable to rates under this Article in respect of its capital value.”.

Power to remove exemption for unoccupied dwelling-houses, etc.

22.—(1) Paragraph 1 of Schedule 8A to the principal Order (hereditaments to which that Schedule applies) shall be amended as follows.

(2) In sub-paragraph (1)—

(a) in head (b) for “the valuation list” substitute “a valuation list”;

(b) for head (c) there shall be substituted the following head—

“(c) except as provided by an order made by the Department, it is not a dwelling-house, a private garage or private storage premises.”.

(3) After sub-paragraph (3) there shall be added the following sub-paragraph—

“(4) The Department shall not make an order under sub-paragraph (1)(c) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”.

Power to prescribe reduction in amount payable

23. For paragraph 2 of Schedule 8A to the principal Order (reduction of 50 per cent. in amount payable in respect of certain unoccupied hereditaments) there shall be substituted the following paragraph—

“**2.—**(1) The amount which, apart from this paragraph, would be payable on account of a rate in respect of any hereditament by virtue of Article 25A shall be reduced by the appropriate percentage.

(2) In sub-paragraph (1) the “appropriate percentage” means in relation to any hereditament 50 per cent. or such other percentage as may be substituted in relation to that hereditament by an order made by the Department.

(3) The Department shall not make an order under sub-paragraph (2) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”.

Former agricultural land, etc.

Reduction of rates on former agricultural land, etc.

24. After Article 31 of the principal Order (reduction of rates on certain hereditaments used for recreation) there shall be inserted the following Article—

“Reduction of rates on former agricultural land, etc.

31AA.—(1) Subject to paragraph (10), the amount which, apart from this Article, would be payable on account of a rate in respect of the net annual value of a hereditament to which this Article applies shall for each qualifying year be reduced by 50 per cent.

(2) This Article applies to a hereditament which—

- (a) consists wholly or mainly of land or buildings which were for the qualifying period but are no longer agricultural land or buildings;
- (b) is occupied by a qualifying person;
- (c) has a net annual value not exceeding £7,000; and
- (d) is not used for the production of, or trade in, any agricultural products.

(3) In this Article—

“agricultural land or buildings” means—

- (a) agricultural land;
- (b) agricultural buildings;
- (c) livestock or poultry buildings;

“agricultural product” means any product listed in Annex I to the EEC Treaty;

“qualifying period” means at least 183 days (which need not be consecutive days) in the twelve months immediately preceding the commencement of Article 24 of the Rates (Amendment) (Northern Ireland) Order 2006;

“qualifying person” means, subject to paragraph (4),—

- (a) the occupier during the qualifying period of the land or buildings mentioned in paragraph (2)(a); or
- (b) a member of his family;

“qualifying year”, in relation to a hereditament, means so much of any year as includes any part of the period of 36 months beginning with the first day, not later than 31st March 2010, on which this Article applies to it.

(4) For the purposes of the definition of “qualifying person” in paragraph (3), if the occupier during the qualifying period was a body corporate or a partnership, the reference to the occupier shall be treated as including a reference to—

- (a) in the case of a body corporate, any person who, on each of the days constituting the qualifying period, had (alone or together with members of that person’s family)—
 - (i) more than half the voting rights in the company, or
 - (ii) the right to appoint or remove a majority of the directors of the company; or
- (b) in the case of a partnership, any person who, together with members of that person’s family, were, on each of those days, both, all or a majority of the partners in the partnership.

(5) For the purposes of this Article a person is a member of another’s family if—

- (a) he is the spouse or civil partner of that person, or he and that person live together as husband and wife or as if they were civil partners;
- (b) he is that person’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece or is the child of that person’s uncle or aunt.

(6) For the purposes of paragraph (5)—

- (a) a relationship by marriage shall be treated as a relationship by blood;

- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood; and
 - (c) the stepchild of a person shall be treated as his child.
- (7) For the purposes of paragraph (2)(a)—
- (a) there shall be disregarded any part of the hereditament which, on the days which are taken into account for the purposes of determining whether the condition set out in paragraph (2)(a) is met, was used for the purposes of a private dwelling; and
 - (b) a building which has replaced an agricultural building or a livestock or poultry building shall be treated as if it were the original building.
- (8) If a reduction under this Article, or any adjustment in it, affects the amount levied on account of a rate in respect of a hereditament for any 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.
- (9) So much of any reduction or repayment under this Article as contravenes a Community obligation shall be recoverable as if it were a debt due to the Department on account of a rate.
- (10) The Department may by order made subject to affirmative resolution amend—
- (a) the amount mentioned in paragraph (2)(c); or
 - (b) the date mentioned in the definition of “qualifying year” in paragraph (3).”.

Other exemptions

Exemption for automatic telling machines in rural areas

25. In Article 42 of the principal Order (distinguishment in valuation list of certain hereditaments exempted from rates), after paragraph (1E) there shall be inserted the following paragraphs—

“(1F) There shall be distinguished in the NAV list as wholly exempt from rates any automatic telling machine which is situated in a rural area during the relevant year.

(1G) In paragraph (1F)—

“automatic telling machine” means a hereditament which is used only for the purposes of a machine which provides automatic telling and other services on behalf of a bank or building society;

“relevant year” means any year beginning on or after the commencement of Article 25 of the Rates (Amendment) (Northern Ireland) Order 2006 and ending before 1st April 2010 or on such later date as the Department may by order made subject to affirmative resolution specify;

“rural area” means a ward designated by the Department by order subject to negative resolution as a rural area for the purposes of paragraph (1F);

“ward” has the same meaning as it has for local government purposes.”.

Power to remove exemption for private dwellings from completion notices

26.—(1) Paragraph 1 of Schedule 8B to the principal Order (new buildings – service of completion notices) shall be amended as follows.

(2) In sub-paragraph (6) (completion notice not to be served if building is, or when next in use will be, used wholly for the purposes of a private dwelling), for the word “The” there shall be substituted the words “Except as provided by an order made by the Department, the”.

(3) After that sub-paragraph there shall be added the following sub-paragraphs—

“(7) The Department shall not make an order under sub-paragraph (6) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(8) An order under sub-paragraph (6) may contain such incidental, supplemental and transitional provisions as the Department considers necessary or expedient, including provisions modifying this Schedule.”.

Power to extend exemption from completion notices

27. In paragraph 1 of Schedule 8B to the principal Order (new buildings – service of completion notices), after sub-paragraph (8) (added by Article 26(3)) there shall be added the following sub-paragraph—

“(9) The Department shall not serve a completion notice in relation to a building of a prescribed class.”.

Reduction of regional rate on dwellings

Abolition of reduction of regional rate on dwellings

28. Article 27 of the principal Order (reduction of regional rate on dwellings) shall cease to have effect.

PART V

APPLICATIONS AND APPEALS

Valuation Tribunal

The Northern Ireland Valuation Tribunal

29.—(1) After Article 36 of the principal Order (the Commissioner, district valuers and the Valuation Office) there shall be inserted the following Article—

“The Valuation Tribunal

The Valuation Tribunal

36A.—(1) There shall be a tribunal to be known as the Northern Ireland Valuation Tribunal which shall exercise the jurisdiction conferred on it by this Order or any other statutory provision.

(2) In this Order “the Valuation Tribunal” means the Northern Ireland Valuation Tribunal.

(3) Schedule 9B (which makes further provision about the Valuation Tribunal) shall have effect.”.

(2) After Schedule 9A to the principal Order there shall be inserted as Schedule 9B the Schedule set out in Schedule 1.

Applications under Article 49 of the principal Order

Frivolous or vexatious applications

30. In Article 49 of the principal Order (revision of valuation list, and alteration, by district valuer), after paragraph (5) there shall be added the following paragraph—

“(6) If the district valuer decides that an application served on him is frivolous or vexatious—

- (a) he shall serve on the applicant notice of his decision; and
- (b) sub-paragraphs (a) and (b) of paragraph (1) shall not have effect in relation to that application.”.

Transfer of application from the district valuer to the Commissioner

31. After Article 49 of the principal Order there shall be inserted the following Article—

“Transfer to the Commissioner of application under Article 49

49A.—(1) The district valuer may, with the consent of the applicant, transfer to the Commissioner an application served on the district valuer under Article 49.

(2) Where an application is transferred under this Article, the functions of the district valuer in relation to the application served on him shall be exercisable by the Commissioner.”.

Appeals to the Commissioner under Article 51 of the principal Order

Power to transfer appeal to the Lands Tribunal not to apply in prescribed cases

32. In Article 53 of the principal Order (power of Commissioner to transfer appeal to the Lands Tribunal), in paragraph (1), for the word “Where” there shall be substituted the words “Except in prescribed cases, where”.

Appeals from the Commissioner and the Valuation Tribunal

Appeals from the Commissioner and the Valuation Tribunal

33. For Article 54 of the principal Order (appeal to Lands Tribunal from decision of Commissioner) there shall be substituted the following Articles—

“Appeal from decision of Commissioner

54.—(1) Any person, other than the Department, who is aggrieved by—

- (a) the decision of the Commissioner under Article 49A or on an appeal under Article 51; or
- (b) an alteration made by the Commissioner in a valuation list in consequence of such a decision,

may appeal to the appropriate Tribunal.

(2) On an appeal under this Article the Tribunal may—

- (a) make any decision that the Commissioner might have made; and

- (b) if any alteration in a valuation list is necessary to give effect to the decision, direct that the list be altered accordingly.
- (3) On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.
- (4) In this Order “the appropriate Tribunal” means—
 - (a) in relation to such appeals as may be prescribed, the Valuation Tribunal;
 - (b) in relation to any other appeals, the Lands Tribunal.

Appeal from decision or direction of Valuation Tribunal

54A.—(1) Any person who is aggrieved by any decision or direction of the Valuation Tribunal under Article 13(3) or 54(2) may, with the leave of—

- (a) the Lands Tribunal; or
- (b) the President of the Valuation Tribunal,

appeal to the Lands Tribunal.

(2) For the purposes of paragraph (1), the Commissioner shall be treated as a person aggrieved by a decision or direction of the Valuation Tribunal under Article 13(3) relating to a determination made by the Department.

- (3) On an appeal under this Article the Lands Tribunal may—
 - (a) make any decision that the Valuation Tribunal might have made;
 - (b) if any alteration in a valuation list is necessary to give effect to the decision, direct that the list be altered accordingly;
 - (c) remit the appeal or any matter arising on it to the Valuation Tribunal with such declarations or directions as the Lands Tribunal thinks proper.

(4) The Valuation Tribunal shall have regard to any declarations and obey any directions under paragraph (3)(c).

(5) On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.”.

PART VI

MISCELLANEOUS AND SUPPLEMENTARY

Payment of interest

Payment of interest

34. After Article 15 of the principal Order (refund of overpayments) there shall be inserted the following Article—

“Payment of interest

15A. Regulations may make provision for interest calculated in accordance with the regulations to be payable by the Department in such manner and in such circumstances as may be prescribed.”.

Rating of owners instead of occupiers

Rating of owners instead of occupiers in certain cases

35.—(1) Article 20 of the principal Order (rating of owners instead of occupiers in certain cases) shall be amended as follows.

(2) For paragraph (1) there shall be substituted the following paragraphs—

“(1) Subject to the provisions of this Order, rates shall be payable by, and levied on, the owner, instead of the occupier, of a hereditament if any of the following sub-paragraphs applies—

- (a) the net annual value of the hereditament does not exceed £750;
- (b) the capital value of the hereditament does not exceed £55,000;
- (c) both the following conditions are satisfied—
 - (i) the rent of the hereditament is payable or is collected at intervals shorter than quarterly or the tenancy agreement (if any, and all of them if more than one) does not provide when it is payable or collected; and
 - (ii) either its net annual value does not exceed £1,590 or its capital value does not exceed £150,000;
- (d) separate parts of the hereditament are let as apartments or lodgings; or
- (e) the hereditament consists of or includes a house in multiple occupation.

(1A) Where a hereditament has a net annual value and a capital value, both conditions in sub-paragraphs (a) and (b) or, as the case may be, in sub-paragraph (c)(ii) of paragraph (1) must be satisfied.

(1B) In paragraph (1)(e) “house in multiple occupation” has the same meaning as in Part IV of the [Housing \(Northern Ireland\) Order 1992 \(NI 15\)](#) except that—

- (a) a person under the age of 16 shall not be treated as a qualifying person for the purposes of that definition; and
- (b) paragraphs (5) and (6) of Article 31AA shall apply for the purposes of determining whether a person is a member of another person’s family for the purposes of this paragraph as they apply for the purposes of that Article.”.

(3) In paragraph (3), for the words “such as is mentioned in sub-paragraph (a) of that paragraph” there shall be substituted the words “to which (subject to paragraph (1A)) sub-paragraph (a), (b) or (e) of paragraph (1) applies”.

(4) For paragraph (5) (power to amend paragraph (1) by order) there shall be substituted the following paragraph—

“(5) The Department may by order made subject to affirmative resolution substitute a different limit for any limit specified in paragraph (1)(a), (b) or (c)(ii); but any such order shall not affect any person’s liability for rates for any period before the coming into force of the first new valuation list to come into force after the date of the order, being a valuation list relevant to the net annual value or capital value of the hereditament in question.”.

Powers to require information

Power to require information about occupiers of hereditaments in capital value list, etc.

36.—(1) Article 26 of the principal Order (power of Department to require information as to ownership, etc., of hereditaments) shall be amended as follows.

- (2) After paragraph (2) there shall be inserted the following paragraph—
- “(2ZA) The Department may, for the purposes of this Order, serve a notice on any relevant person requiring him to state to the Department in writing, within a period and in the manner specified in the notice, the following information if it is within his knowledge or control—
- (a) the name of the occupier of a hereditament specified in the notice;
 - (b) the name and address of the owner of a hereditament specified in the notice.”.

(3) In paragraph (2B)—

 - (a) for the words “paragraph (2A)” there shall be substituted the words “paragraphs (2ZA) and (2A)”;
 - (b) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(bb) the owner of the hereditament;”.

Power to require information for valuation list purposes

37. For Article 59 of the principal Order (power to call for returns) there shall be substituted the following Article—

“Power to require information for valuation list purposes

- 59.—**(1) The Commissioner or the district valuer, or any person authorised by the Commissioner or the district valuer in writing in that behalf, may serve a notice on any person requiring him to provide such information as may reasonably be required—
- (a) for the purpose of enabling a new valuation list to be accurately prepared; or
 - (b) with a view to any revision or alteration of a valuation list.
- (2) Any person on whom a notice is served under this Article shall comply with the notice within a period and in the manner specified in the notice.”.

Powers of entry

Powers of entry

38.—(1) In Article 26A of the principal Order (powers of entry of persons authorised by Department)—

- (a) paragraph (2) (power of entry not exercisable in relation to dwelling-houses, etc.) shall cease to have effect;
 - (b) for paragraph (3) there shall be substituted the following paragraph—
- “(3) The occupier or, if the land is not occupied, the person entitled to possession of it shall give such assistance as the person mentioned in paragraph (1) may reasonably require to enter the land or for the purpose mentioned in that paragraph.”.
- (2) In Article 58 of the principal Order (powers of entry of valuers), for paragraphs (2) to (4) there shall be substituted the following paragraph—
- “(2) The occupier or, if the land is not occupied, the person entitled to possession of it shall give such assistance as the Commissioner or the person authorised by him may reasonably require to enter the land or for the purpose mentioned in paragraph (1).”.
- (3) In Article 60 of the principal Order (offences)—

- (a) in paragraph (4) (obstruction etc. of authorised person), the words “, other than the occupier or owner of land,” shall cease to have effect;
- (b) for paragraph (5) there shall be substituted the following paragraph—
 - “(5) If any person fails without reasonable excuse to give any assistance which he is reasonably required to give under Article 26A or 58, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

Amendments

Amendments

39. Schedule 2 (which amends the principal Order and other statutory provisions) shall have effect.

Transitional and consequential provisions, etc.

Power to make transitional and consequential provisions, etc.

40.—(1) The Department may by order subject to negative resolution make such transitional or consequential provision (including provision modifying any statutory provision), or such savings, as the Department considers necessary or expedient for the purposes of or in connection with the coming into operation of any provision of this Order.

(2) In paragraph (1) “modifying” means making additions, omissions, amendments, adaptations, applications, extensions, restrictions and substitutions.

Repeals

Repeals

41. The statutory provisions set out in Schedule 3 are hereby repealed to the extent specified in the second column of that Schedule.

A.K. Galloway
Clerk of the Privy Council