

NORTHERN IRELAND (MINISTERIAL APPOINTMENTS AND REGIONAL RATES) ACT 2017

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Northern Ireland (Ministerial Appointments and Regional Rates) Act 2017 (c. 24) which received Royal Assent on 27 April 2017.

- These Explanatory Notes have been prepared by the Northern Ireland Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

Table of Contents

Subject	Page of these Notes
Overview of the Act	3
Policy background	3
Legal background	4
Territorial extent and application	4
Commentary on provisions of Act	5
Section 1 - Extension of period for filling Ministerial offices	5
Section 2 - Regional rates	5
Commencement	5
Annex A - Territorial extent and application in the United Kingdom	6
Annex B - Hansard References	7

Overview of the Act

- 1 The Act deals with two matters arising from the continued absence of a Northern Ireland Executive following the Assembly election on 2 March 2017.
- 2 It sets the amounts of the regional domestic and non-domestic rates for the assessment of rates and the billing of ratepayers in Northern Ireland for the financial year ending on 31 March 2018.
- 3 It also makes provision to extend the period for filling Ministerial offices in the Northern Ireland Executive following the Northern Ireland Assembly election on 2 March 2017 to enable an Executive to be formed. The period previously expired on Monday 27 March. The Act extends that period to Thursday 29 June.

Policy background

- 4 On 10 January 2017, the then deputy First Minister of Northern Ireland resigned, which under the provisions of the Northern Ireland Act 1998 also resulted in the First Minister ceasing to hold office. With no re-nomination to the office of deputy First Minister within the seven day deadline set out in the 1998 Act, the Secretary of State for Northern Ireland fell under a duty to propose a date for the next Assembly election. He proposed that an election be held on 2 March, which was confirmed by Order in Council.
- 5 The Assembly subsequently met for the first time at 4pm on 13 March, starting a 14 day statutory period under the 1998 Act in which a new Northern Ireland Executive must be formed. Where an Executive is not formed by the end of that period, the Secretary of State falls under a duty to propose a date for a further Assembly election. That period ended on 27 March.
- 6 Discussions between the Northern Ireland parties, and the UK and Irish Governments, have been ongoing in the period since the 2 March election. However it was not possible for an Executive to form by 27 March and no agreement has yet been reached. As a result, the duty to propose a date for a further election has arisen. Under the 1998 Act, with the 14 day period having expired, it is not now possible for an Executive to be formed unless a further election is held.
- 7 The Act extends the statutory period for the formation of an Executive retrospectively. This enables an Executive to be formed and power-sharing government to return to Northern Ireland at the earliest opportunity. It extends the statutory period to 108 days from the first sitting of the Assembly. This period expires on 29 June, allowing time for Northern Ireland Ministers to be appointed prior to the UK Parliamentary General Election on 8 June and also providing parties with the space to resume talks and appoint Ministers after that election.
- 8 The Act also sets regional rates for domestic and non-domestic property for the 2017-18 rating year. It does so by stipulating a regional rate for domestic and non-domestic property, expressed in terms of "pence per pound of rateable value". Regional rates are normally set through an Order subject to the affirmative resolution procedure in the Assembly and made under Article 7 of the Rates (Northern Ireland) Order 1977 (SI 1977/2157). It is necessary to proceed by means of primary legislation at Westminster in this instance because, in the continued absence of an Executive, these rates could not otherwise be set.

- 9 The rates laid out in Section 2 reflect a 1.6% increase, for both domestic and non-domestic ratepayers, equivalent to the current level of inflation as measured using the most recent GDP deflator. This inflationary measure has been the standard method used by the Northern Ireland Executive for providing for inflationary uplifts in this context since the restoration of the devolved institutions in 2007. It is also the inflation adjustment used in setting the Northern Ireland public expenditure budget.

Legal background

- 10 Section 16A(3) of the Northern Ireland Act 1998 sets a 14 day period, beginning with the first sitting of the Assembly after an Assembly election, for the appointment of Northern Ireland Ministers and thus the formation of an Executive. Following that period, the Secretary of State comes under a duty (under section 32(3)(a) of the 1998 Act) to propose a date for a new Assembly election. Section 16A(8) precludes an Executive being formed after the 14 day period without a further election being held. Section 1 amends section 16A, as set out in the commentary below, to enable an Executive to be formed later than the existing 14 day statutory period, with effect only in relation to the Assembly election of 2 March 2017.
- 11 Regional rates are normally set through an Order under powers conferred by Article 7(1) and (3) of the Rates (Northern Ireland) Order 1977 (as amended), subject to affirmative resolution by the Northern Ireland Assembly. The 1977 Order sets out the framework for the levying of rates in Northern Ireland, but leaves the level of the rates to be set each year. As no Northern Ireland Executive has been formed following the 2 March 2017 Assembly election, these rates could not otherwise be set. Section 2 is required in order to set the rates for the year ending 31 March 2018 in the absence of the usual rates Order.

Territorial extent and application

- 12 The Act extends only to Northern Ireland.

Commentary on provisions of Act

Section 1 - Extension of period for filling Ministerial offices

- 13 Section 1 extends the period for filling Ministerial offices in the Northern Ireland Executive. Subsection (1) makes clear that this relates only to the first occasion that those offices must be filled following the Northern Ireland Assembly election on 2 March 2017. It provides a 108 day statutory period for offices to be filled after the Assembly has first met, rather than the current 14 day period. This has the effect of requiring an Executive to be formed by 29 June, enabling a deal reached by the parties to be implemented by that point. Subsection (2) retrospectively applies subsection (1), such that the new deadline is treated as having been in place since 2 March. Subsection (3) clarifies that the offices in question are the offices of the First Minister and deputy First Minister for Northern Ireland and the other Ministers in the Northern Ireland Executive.

Section 2 - Regional rates

- 14 This section fixes the levels of the regional domestic and regional non domestic rates that are to be used in the assessment of rates and the billing of ratepayers in Northern Ireland for the year ending 31 March 2018. Subsection (3) sets the domestic regional rates, expressed in terms of 'pence per pound of rateable value', at 0.4177 pence and subsection (2) sets the non-domestic regional rate at 32.92 pence.
- 15 Subsection (4) clarifies that the Department of Finance in Northern Ireland may subsequently vary the rates set by this Act, using the established procedure of an Order under the Rates (Northern Ireland) Order 1977. Subsection (5) makes clear that any such order may only be made after the formation of an Executive after 1 April 2017 and that it may set the rates for the whole of the year in which the Order is made. This clarifies that the same power that the Department of Finance would ordinarily have to vary a regional rate, if it had been set by means of a Rates Order, applies following the passage of this Act.

Commencement

- 16 The Act came into force on the day on which it was passed.

Annex A - Territorial extent and application in the United Kingdom

17 The Act extends only to Northern Ireland.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 1	No	No	No	Yes
Section 2	No	No	No	Yes

Annex B - Hansard References

18 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	20 April 2017	Vol. 624 Col. 826
Second Reading	24 April 2017	Vol. 624 Col. 917
Committee of the Whole House	24 April 2017	Vol. 624 Col. 974
Report and Third Reading	24 April 2017	Vol. 624 Col. 974
<i>House of Lords</i>		
Introduction	25 April 2017	Vol. 782 Col. 1271
Second Reading	26 April 2017	Vol. 782 Col. 1398
Grand Committee	N/A	N/A
Report	N/A	N/A
Third Reading	26 April 2017	Vol. 782 Col. 1422
Commons Consideration of Lords Amendments	N/A	N/A
Royal Assent	27 April 2017	Vol. 782 Col. 1528

© Crown copyright 2017

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.



Published by TSO (The Stationery Office), part of Williams Lea Tag, and available from:

Online
www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO
PO Box 29, Norwich, NR3 1GN
Telephone orders/General enquiries: 0333 202 5070
Fax orders: 0333 202 5080
E-mail: customer.services@tso.co.uk
Textphone: 0333 202 5077

TSO@Blackwell and other Accredited Agents

£6.00

ISBN 978-0-10-560064-0



9 780105 600640