

RATES (AMENDMENT) (NORTHERN IRELAND) ORDER 2006

S.I. 2006 2954

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The Rates (Amendment) (Northern Ireland) Order 2006 was made on 14 November 2006.
2. This Explanatory Memorandum has been prepared by the Department of Finance and Personnel ('the Department') to assist the reader in understanding the Order. It does not form part of the Order. All rating documents referred to, along with details of the consultation exercise, can be found on the Review of Rating Policy website – www.ratingreviewni.gov.uk

BACKGROUND AND POLICY OBJECTIVES

3. The Northern Ireland Executive commissioned the Review of Rating Policy in 2000 with the aim of making the rating system in Northern Ireland fairer and more understandable. The most significant change provided for in the Order is the change to a domestic rating system based on individual capital values.
4. The Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006 No. 611 (N.I. 4)) provided for the publication of the capital value of every domestic property in Northern Ireland. These were published during July and August 2006 and enable ratepayers to make enquiries and, if necessary, seek an informal administrative review of their valuation before the new system based on capital values comes into operation in April 2007.
5. The Order also gives effect to a range of other reforms including:
 - transitional rate relief;
 - a new rate relief scheme for those on low incomes;
 - full relief on properties occupied solely by those in full time education and training, young people leaving care and persons under 18;
 - a new independent Valuation Tribunal;
 - partial exemption to houses owned by ministers of religion and other similar clergy;
 - a range of enabling powers to allow the new system to be varied; and
 - further reliefs and exemptions for the non-domestic sector.

CONSULTATION AND OPTIONS CONSIDERED

6. Throughout the Review of Rating Policy there has been widespread public consultation. The options for change in both the domestic and non-domestic sectors were originally set out in the 2002 consultation paper. This was followed up in 2004 when a policy paper on reform of the domestic sector was consulted upon. Finally there was further consultation in early 2005 on proposals for the non-domestic sector. Consultation

*This Explanatory Memorandum refers to the Rates
(Amendment) (Northern Ireland) Order 20062954*

reports on both sectors were published in March and October 2005 and April 2006 setting out the way forward.

MAIN ELEMENTS OF THE ORDER

7. The Order is divided into six Parts and contains 41 Articles and 3 Schedules. Part I sets out the title of the Order and the commencement provisions and defines certain terms used in the Order.
8. Part II sets out general provisions of the Order relating to the regional and district rates and the introduction of a policing precept. It also covers the basis of valuation, rateable values and the right to pay rates by instalments.
9. Part III sets out the general provisions on valuation lists including the publication of new lists and public access to these lists.
10. Part IV provides for a range of reliefs and exemptions for both the domestic and non-domestic sectors.
11. Part V sets out the provisions on reviews and appeals including the new Northern Ireland Valuation Tribunal.
12. Part VI deals with miscellaneous and supplementary provisions including the payment of interest, the rating of owners instead of occupiers, powers of entry and requiring information and for amendments, transitional and consequential provisions and repeals.

COMMENTARY ON ARTICLES

13. Comments on Articles are not provided where the wording is self-explanatory.

Part II – General

Article 3: Regional rate and district rate

14. This Article takes account of the introduction of capital values and provides for a rate to be made and levied on the rateable value of every hereditament in the NAV and capital value lists, for the Department or a district council to disregard any alterations to a valuation list, after a date they set, to enable the rate in the pound to be fixed and, in a revaluation year, for the use of a new valuation list in fixing the rate even though it has not come into operation. It enables different rates to be made and levied on rateable NAVs and rateable capital values.

Article 4: Police purposes part of the regional rate

15. This Article allows for an amount of the regional rate to be specified for police purposes in the annual Rates (Regional Rates) (Northern Ireland) Order. This is subject to the approval of the Assembly and the devolution of policing functions.

Article 5: Rateable values

16. This Article defines the rateable values of a hereditament and provides that the rateable net annual value and rateable capital value of a hereditament will be its NAV and capital value respectively, except where provided to the contrary in Schedule 7 to the Rates (Northern Ireland) Order 1977 (S.I. 1977 No. 2157(N.I. 28)) ('the principal Order').

Article 6: Liability to be rated according to rateable values

17. This Article provides that the occupier of a hereditament shall be chargeable to rates on the basis of its rateable value. It also provides through regulations for rates to be chargeable on the basis of a maximum or minimum capital value threshold rather than a capital value for specified hereditaments.

Article 7: Liability to be rated in respect of hereditaments owned by the Housing Executive etc.

18. This Article provides that persons chargeable to rates on hereditaments in the social sector shall be chargeable on the basis of the proportion of the rent of the hereditament. Regulations, subject to affirmative resolution, will prescribe the organisations whose hereditaments are subject to this provision and such other conditions as necessary.

Article 8: Basis of valuation

19. This Article and Part I of Schedule 12 to the principal Order extend the basis of valuation to include capital value and list the hereditaments to be valued on that basis. They set out the general rules for determining capital value, how hereditaments will be valued for the purpose of a revision of the valuation list and the assumptions that will apply in determining whether a property is a comparable hereditament for the purpose of a revision. The relevant valuation date is 1 January 2005 or such other date as the Department may substitute.
20. They also list the assumptions that will be made in estimating the capital value of a hereditament and set out how mixed hereditaments (used for both domestic and non-domestic purposes) will be valued.

Article 9: Right to pay rates by instalments

21. This Article extends the right to pay rates by instalments to all non-domestic property.

Article 10: Agreement for deferred payment of rates on dwellings

22. This Article provides for the introduction of a scheme through regulations that allows the Department to enter into agreements with owner-occupiers of pensionable age (i.e. state pension age) to defer rates on domestic property in their name provided certain conditions are satisfied. This is subject to the approval of the Assembly.

Part Iii – Valuation Lists

Article 11: General provisions as to valuation lists

23. This Article obliges the Commissioner of Valuation to maintain both a capital value list and an NAV list and sets out what should be entered in these lists.

Article 12: New valuation lists

24. This Article enables the Commissioner to publish a new valuation list containing a general revaluation of such hereditaments as the Department may determine. It also provides for a valuation list to be altered, after it has been published but before it has come into force, and requires certificates of alteration to be issued subsequent to this.

Article 13: Access to valuation lists

25. This Article requires the Commissioner to take reasonable steps to notify the public of the publication of a new valuation list. The Department and district councils are required to facilitate access to a valuation list and notify the public of these arrangements following the publication of a new valuation list. The Article also requires the public to be provided with a copy of any part of a list on request and provides for a fee to be charged.

Part IV – Reliefs and Exemptions Etc.

Article 14: Rate relief scheme

26. This Article provides for rate relief for domestic ratepayers and enables the Department to make whatever regulations are necessary for the purposes of the scheme including those corresponding to statutory provisions governing housing benefit.

Article 15: Persons under 18 and persons in education and training or leaving care

27. This Article provides for full relief from rates to be provided where a property is occupied solely by persons under 18, persons in education and training or leaving care. It also allows halls of residence to be exempt from rates, where they are used to accommodate those in full time education and training. In addition, the Article allows the Department to specify the conditions that will apply in relation to this, including a definition of those in full time education and training, and that the benefit is passed on to the person occupying the properties where a landlord pays the rates.

Article 16: “Disability”

28. This Article substitutes the definition of “disabled” with a new definition of “disability”.

Article 17: Rate rebates for certain hereditaments with special facilities for persons with disabilities

29. This Article amends existing provisions on rebates for domestic property with special facilities for persons with a disability, sets out the criteria for the rebate and removes the garage and central heating elements for awards after 1 April 2007.
30. The amount of the rebate will equate to 25 per cent of the rate bill. It provides also that, where applicable, this rebate shall be applied before the award of rate relief. An appeal process is introduced.

Article 18: Transitional rate relief

31. This Article provides for transitional relief to be awarded where the net annual value or capital value of a hereditament differs from the values in a previous valuation list or no such value existed. It enables the amount of rates due and also differences in values to come into operation over such periods and in such proportions as may be determined by the Department.

Article 19: Extension of exemption relating to sale of goods donated to a charity

32. This Article extends exemption from rates to the sale of other goods (in addition to goods donated to a charity), where the hereditament is used mainly for the sale of donated goods and the proceeds of the sale of those goods are applied for the purposes of a charity. An order specifying the type of goods would have to be laid before and approved by a resolution of the Assembly.

Article 20: Extension of charitable exemption for clergy residences

33. This Article allows the existing partial exemption of clergy residences to be applied to houses owned by ministers of religion and other similar clergy.

Article 21: Power to prescribe exemption where hereditament has both a capital value and a net annual value

34. This Article enables regulations to be made that may specify that where an unoccupied hereditament has both an NAV and a capital value that rates will not be charged on the capital value part. This will ensure that the domestic part of a property will not

be subject to the unoccupied rate until the Assembly decides to introduce this in the domestic sector.

Article 22: Power to remove exemption for unoccupied dwelling-houses, etc.

35. This Article makes provision that Schedule 8A to the principal Order may apply to a dwelling-house, private garage or private storage premises subject to approval by a resolution of the Assembly. This enables the Assembly to introduce unoccupied rating of the domestic sector.

Article 23: Power to prescribe reduction in amount payable

36. This Article provides for a reduction of 50 per cent in the rates payable on certain unoccupied properties to be altered, subject to approval by a resolution of the Assembly.

Article 24: Reduction of rates on former agricultural land, etc.

37. This Article provides for the introduction of a farm diversification relief scheme. The scheme will be time limited, provide for 50 per cent relief on the rates, specify eligibility and occupancy conditions, have an upper net annual value limit of £7,000, which can be changed by regulations subject to affirmative resolution and also treats replacement buildings as if they were the original building for the purposes of this relief. It does not apply to domestic property. It provides also for reduction in or repayment of relief where a Community obligation has been contravened.

Article 25: Exemption for automatic telling machines in rural areas

38. This Article provides for full exemption for automatic telling machines (ATMs) shown in the NAV list that are situated in rural areas. It provides for powers to amend the date of cessation of the Article (by affirmative resolution) and to designate wards deemed to be rural areas (by negative resolution).

Article 26: Power to remove exemption for private dwellings from completion notices

39. This Article gives the Department the power to serve a completion notice on a building used wholly for the purposes of a private dwelling, subject to approval by resolution of the Assembly. A completion notice is served when the Department considers that a new building can reasonably be expected to be completed within a three-month period and it then becomes liable to the unoccupied rate.

Article 27: Power to extend exemption from completion notices

40. This Article gives the Department the power not to serve completion notices in respect of certain classes of buildings.

Article 28: Abolition of reduction of regional rate on dwellings

41. This Article repeals Article 27 of the principal Order, which provides for a reduction in the regional rate for domestic property.

Part V – Applications and Appeals

Article 29 and Schedule 1: The Northern Ireland Valuation Tribunal

42. This Article inserts Article 36A (the Valuation Tribunal) and Schedule 1 which will be inserted as Schedule 9B to the principal Order. It provides for the setting up of the Northern Ireland Valuation Tribunal and for its constitution and procedures, including details of its membership, appointments and terms and conditions.
43. The Schedule also provides for the Lord Chancellor to make procedural rules regulating the exercise of a right of appeal to the Tribunal and its practice and procedures.

Article 33: Appeals from the Commissioner

44. This Article amends Article 54 which provides for the next stage of appeal from the Commissioner of Valuation stage while Article 54A provides for any person to be able, with approval, to appeal to the Lands Tribunal.

Part Vi – Miscellaneous and Supplementary

Article 35: Rating of owners instead of occupiers in certain cases

45. This Article replaces the NAV thresholds relating to landlord liability for domestic property. It also obliges the landlord to pay the rates on a house occupied by three or more persons that do not constitute a single household.

Article 36: Power to require information about occupiers of hereditaments in capital value list, etc.

46. This Article amends existing provisions requiring the provision of information, i.e. obtaining details on owners and occupiers, in relation to domestic properties.

Article 37: Power to require information for valuation list purposes

47. This Article provides for a notice to be served on any person requiring them to provide information needed to prepare a new, or a revision of, a valuation list.

Article 38: Powers of entry

48. This Article extends the power of entry, for the purpose of gathering information, to domestic properties. It also obliges the occupier/person entitled to possession to give reasonable assistance when information is being gathered for rating or valuation purposes. Where a person fails to give reasonable assistance, in relation to the power of entry, they will be guilty of a new offence and liable to a fine.

COMMENCEMENT

49. **Articles 1 and 2** of the Order will come into operation at the end of 7 days from the day on which the Order is made. The remaining provisions of the Order are to come into operation on a day, or days, to be appointed by the Department.