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STATUTORY INSTRUMENTS

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**1998 No. 3164 (N.I. 22)**

**NORTHERN IRELAND**

**The Rates (Amendment) (Northern Ireland) Order 1998**

*Made - - - - 16th December 1998  
Coming into operation on days to be appointed under  
Article 1(2)*

At the Court at Buckingham Palace, the 16th day of December 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1.—(1) This Order may be cited as the Rates (Amendment) (Northern Ireland) Order 1998.

(2) This Order shall come into operation on such day or days as the Department of Finance and Personnel may by order appoint.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the principal Order” means the Rates (Northern Ireland) Order 1977.

**Restriction on amount recoverable in certain cases by reference to new valuation list**

3. Article 12 of the principal Order, which restricts, in certain circumstances, the amount of rates recoverable following a revaluation, shall cease to have effect.

**Payment or collection of rates by owners by agreement**

4. In Article 21 of the principal Order (payment or collection of rates by owners by agreement)—

- (a) in paragraph (1)—
  - (i) for the words from “either” to the end of sub-paragraph (c) there shall be substituted “that he will pay the rates chargeable in respect of the hereditament whether it is occupied or not”;
  - (ii) for the words from “exceeding” onwards there shall be substituted “exceeding 10 per cent.”;
- (b) paragraphs (5) and (6) shall be omitted.

### **General stores etc., in rural settlement**

5.—(1) After Article 31B of the principal Order there shall be inserted—

#### **“General stores etc., in rural settlements**

**31C.** Schedule 9A (which provides for relief from rates for certain hereditaments in rural settlements) shall have effect.”.

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

### **Crown property**

6. After Article 37 of the principal Order there shall be inserted—

#### **“Crown property**

**37A.**—(1) The provisions of this Order and of any statutory instrument made under it shall apply to the Crown as they apply to other persons.

(2) Accordingly, liability to rates in respect of a hereditament is not affected by the fact that—

- (a) the hereditament is occupied by the Crown or by a person acting on behalf of the Crown or is used for Crown purposes, or
- (b) the Crown or a person acting on behalf of the Crown is the owner of the hereditament.

(3) In this Article “statutory instrument” has the meaning assigned to it by section 1(d) of the Interpretation Act (Northern Ireland) 1954.”.

### **Pig testing station**

7. In paragraph 3 of Schedule 1 to the principal Order (definition of livestock or poultry building)

- (a) in sub-paragraph (1)(a)(i) after “poultry” there shall be inserted “or is used for the scientific testing of livestock or poultry for the purposes of the improvement of breeding stock”;
- (b) in sub-paragraph (1)(a)(ii) after “poultry” there shall be inserted “or used for the scientific testing of livestock or poultry for the purposes of the improvement of breeding stock”.

### **Rating of prisons**

8. In Schedule 5 to the principal Order (definition of “dwelling house”)—

- (a) after paragraph 4 there shall be inserted—

“4A.—(1) Subject to sub-paragraph (2), a hereditament or part of a hereditament shall be deemed to be used wholly for the purposes of a private dwelling if—

- (a) it constitutes, or forms part of, a prison; and
- (b) it is used as one or more of the following—
  - (i) a cell (other than a special punishment cell);
  - (ii) a common recreational area (other than a sports hall or an uncovered area);
  - (iii) a library;
  - (iv) a chapel;
  - (v) a kitchen;
  - (vi) a dining room;
  - (vii) toilets;
  - (viii) personal washing facilities;
  - (ix) a laundry for the exclusive use of prisoners;
  - (x) a storage area which is within a cell block and which is used in connection with other premises covered by this head;
  - (xi) a corridor linking premises covered by this head; and
  - (xii) a boiler or plant room which to any extent serves other premises covered by this head.

(2) Without prejudice to sub-paragraph (1), so much of the prison in question which is used as a kitchen, dining-room, toilets or personal washing facilities provided for the exclusive use of persons employed in that prison shall not be deemed to be used wholly for the purposes of a private dwelling.”;

(b) in paragraph 5 at the end there shall be added—

“(d) “prison” includes a young offenders centre provided under section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968 and a remand centre provided under paragraph (b) of that section but does not include a naval, military or air force prison.”.

### **Sporting rights**

9.—(1) In Schedule 10 to the principal Order (hereditaments)—

- (a) entry 2 shall be omitted;
- (b) in entry 3 for “rights of” there shall be substituted “a right of fowling, shooting, taking or killing game or rabbits, or”;
- (c) in entry 8 at the end there shall be added “except any right excluded from entry 3”.

(2) In Schedule 12 to the principal Order (basis of valuation) at the end of Part I there shall be inserted—

## **“PART IA SPORTING RIGHTS**

1.—(1) This paragraph applies where—

(a) a hereditament consists wholly or in part of land on which a right of sporting is exercisable;  
and

(b) the right is not severed from the occupation of the land.

(2) For the purposes of determining the net annual value of the hereditament, the rent at which the hereditament might reasonably be expected to let shall be estimated as if the right of sporting did not exist.

(3) In this paragraph “right of sporting” means a right of fowling, shooting, taking or killing game or rabbits, or fishing.”.

#### **Other amendments to the principal Order**

**10.** The principal Order shall have effect subject to the amendments specified in Schedule 2, being minor amendments and amendments consequential upon the provisions of this Order.

#### **Saving**

**11.** Nothing in this Order shall affect the right of the Foyle Fisheries Commission to make and levy a rate on every fishery under section 22 of the Foyle Fisheries Act (Northern Ireland) 1952.

#### **Repeals**

**12.** The statutory provisions set out in Schedule 3 are hereby repealed to the extent specified in the third column of that Schedule.

*A.K. Galloway*  
Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 5(2).

#### PROVISIONS INSERTED AS SCHEDULE 9A TO THE PRINCIPAL ORDER

#### “SCHEDULE 9A

#### RELIEF FROM RATES FOR GENERAL STORES ETC. IN RURAL SETTLEMENTS

##### *Rural settlement list*

1.—(1) The Department shall compile and maintain, in accordance with paragraph 2, a list (to be called its rural settlement list).

(2) The first rural settlement list shall have effect for a financial year or such lesser period ending on 31st March as the Department may determine and a subsequent list is to have effect for each financial year and shall identify for that year or period or, as the case may be, each financial year any settlements mentioned in sub-paragraph (3).

(3) The settlements referred to in sub-paragraph (2) are those which—

- (a) appear to the Department to have had a population of not more than 3,000 on the last 31st December before the beginning of the financial year in question, and
- (b) in that financial year are wholly or partly within an area designated by the Department by order subject to negative resolution as a rural area for the purposes of this paragraph.

(4) A rural settlement list shall identify the boundaries of each settlement (whether by defining the boundaries or referring to boundaries defined in a map or other document).

(5) An order under sub-paragraph (3)(b) may provide for designating as a rural area any area for the time being identified by any person, in any manner, specified in the order.

(6) Sub-paragraph (1) does not apply to the Department in respect of any financial year for which there are no such settlements as are mentioned in sub-paragraph (3) (and, accordingly, if the Department has compiled a rural settlement list, it shall cease to maintain that list).

##### *Preparation and maintenance of lists*

2.—(1) The Department shall, throughout the period of 3 months preceding the beginning of the first financial year or, as the case may be, period for which a rural settlement list is to have effect, make available for inspection a draft of the list in the form in which the Department proposes that it should have effect for that period.

(2) In each financial year for which a rural settlement list has effect the Department shall (if it appears to the Department that paragraph 1(1) will apply to the Department in respect of the financial year) review the list and consider whether or not, for the next financial year, any alterations are required to the list in order to give effect to paragraph 1(2).

(3) If following the review the Department considers that any such alterations are required for that year, it shall, throughout the 3 months preceding the beginning of that year, make available for inspection a draft of the list in the form in which it proposes that it should have effect for that year.

(4) Where the Department has compiled a rural settlement list it shall make the list available for inspection in the form in which the list has effect for each financial year to which it relates.

(5) Where the Department is required to make any list or draft available under this paragraph, it shall make the list or draft available at any reasonable hour (and free of charge).

*Mandatory relief*

**3.—**(1) For any period in a financial year where sub-paragraph (2) applies to a hereditament, the rates leviable in respect of the hereditament are to be 50 per cent. of the rates which would have been leviable apart from this paragraph.

(2) This sub-paragraph applies where—

- (a) the hereditament is within a settlement identified in the Department's rural settlement list for the financial year in which the period falls,
- (b) the net annual value of the hereditament shown in the valuation list at the beginning of that financial year is not more than any amount specified by the Department of Finance and Personnel by order subject to negative resolution, and
- (c) during the period concerned—
  - (i) the whole or part of the hereditament is used as a qualifying general store or qualifying post office, or
  - (ii) any conditions specified by the Department of Finance and Personnel by order subject to affirmative resolution are satisfied;

and sub-paragraphs (3) to (5) apply for the purposes of this sub-paragraph.

(3) The whole or part of a hereditament is used as a qualifying general store for any period in a financial year if—

- (a) a trade or business consisting wholly or mainly of the sale by retail of both food for human consumption (excluding confectionery) and general household goods is carried on there, and
- (b) such a trade or business is not carried on in any other hereditament or part of a hereditament, in the settlement concerned.

(4) The whole or part of a hereditament is used as a qualifying post office for any period in a financial year if—

- (a) it is used for the purposes of the Post Office (within the meaning of the Post Office Act 1953), and
- (b) no other hereditament, or part of a hereditament in the settlement concerned is so used.

(5) Where a hereditament or part is used as a qualifying general store or qualifying post office for any period in a financial year, it is not to be treated as ceasing to be so used merely because the condition in sub-paragraph (3)(b) or (4)(b) ceases to be satisfied.

*Discretionary relief*

**4.—**(1) The Department, with the approval of the Department of Finance and Personnel and after consultation with the district council for the district in which the hereditament is situated, may reduce or remit any rate leviable in respect of a hereditament for any period in a financial year in which the condition mentioned in sub-paragraph (2) applies to the hereditament.

(2) The condition is—

- (a) that the hereditament is within a settlement identified in the Department's rural settlement list for the financial year in which the period falls, and
  - (b) that the net annual value of the hereditament shown in the valuation list at the beginning of that financial year is not more than any amount specified by the Department of Finance and Personnel by order subject to negative resolution.
- (3) Where paragraph 3(2)(c) does not apply, the Department shall not, by virtue of this paragraph, make a reduction or remission unless it is satisfied that—
- (a) the hereditament is used for purposes which are of benefit to the local community, and
  - (b) it would be reasonable for the Department to make such a reduction or remission, having regard to the interests of persons liable to pay regional and district rates.

*Grant of mandatory or discretionary relief*

5. No reduction or remission of the rates leviable in respect of a hereditament under paragraph 3 or 4 shall be granted except on an application made to the Department by the person entitled to the reduction or remission and any such application shall contain such information as the Department may reasonably require.”.

SCHEDULE 2

Article 10.

OTHER AMENDMENTS TO THE PRINCIPAL ORDER

1. In Article 7(4) (making of rates) for “the” in the first place where it occurs substitute “a”.
2. In Article 8(1) (time of making of, determination of amount of, district rate) for “the” in the second place where it occurs substitute “a”.
3. In Article 9(1) for “the” in the first and second places where it occurs substitute “a”.
4. In Article 27 (reduction of regional rate on dwellings)—
  - (a) in paragraph (1) for “the” in the second place where it occurs substitute “a”;
  - (b) in paragraph (6), in the definition of “the normal regional rate”, for “the” in the fourth place where it occurs substitute “a”.
5. In Article 34(1) (payments to district councils on account of district rates) for “the” in the third place where it occurs substitute “a”.
6. In Article 50(3) (alteration in valuation lists by Commissioner) for “, (iv) or (v)” substitute “or (iv)”.
7. In Article 52(6)(ii) (notices or statements served by Commissioner) after “appellant” insert “and if requested by the council to do so”.
8. In Article 56(8) (service of certificates of alterations in valuation list)—
  - (a) omit sub-paragraph (a);
  - (b) in paragraph (b) at the end add “if requested by the council to do so”.
9. In paragraph 1 of Schedule 2 (definitions of industrial hereditaments) in the definition of “public supply undertaking” after “public, or” insert “for the treatment of sewage, or”.

## SCHEDULE 3

Article 12.

## REPEALS

Chapter or Number	Short title	Extent of repeal
<a href="#">1977 NI 28.</a>	The Rates (Northern Ireland) Order 1977.	Article 12.  Article 21(5) and (6). Article 44(3). Article 50(1)(a)(v). Article 56(8)(a). In Schedule 10, entry 2.

**EXPLANATORY NOTE***(This note is not part of the Order)*

This Order amends the Rates (Northern Ireland) Order 1977 by—

- (a) repealing the entitlement to a reduction in the amount payable, in certain cases, following a revaluation;
- (b) providing for a standard allowance in cases where owners instead of occupiers agree to the payment of rates;
- (c) providing for a rate relief scheme to operate in rural settlements;
- (d) enabling the abolition of Crown immunity in respect of payment of rates;
- (e) enabling livestock or poultry testing stations to be exempt from liability for rates;
- (f) enabling parts of prisons used by prisoners to be valued as being in domestic use; and
- (g) enabling sporting rights to be exempt from liability for rates.