

RATES (AMENDMENT) (NORTHERN IRELAND) ORDER 2004

S.I. 2004 No. 703 (N.I. 4)

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

Article 5 (and Schedule 2): New Buildings

This Article, which is consequential on Article 4, inserts a new Article 25B and Schedule 8B (Schedule 2 of the Order) in the principal Order. Schedule 8B provides that the Department may serve a completion notice on the person entitled to possession of a new building where it appears to the Department that the new building has already been completed or that it can reasonably be expected to be completed within 3 months. A completion notice can be withdrawn and cannot be served on a building that is, or when next in use will be, a private dwelling. It proposes the date of the “completion day”. This is the day on which a new building is deemed to be completed.

Schedule 8B provides that the completion day proposed in the completion notice may be determined by agreement between the Department and the person entitled to possession. In this case, the completion notice is withdrawn. However, where an agreement cannot be reached, the ratepayer is given a right of appeal to the Commissioner of Valuation. The Commissioner may determine a different date as the completion day. He can also transfer an appeal to the Lands Tribunal of Northern Ireland. However, if the Commissioner has considered the appeal and the ratepayer is dissatisfied with his decision, he or she has a further right of appeal to the Lands Tribunal of Northern Ireland. The Tribunal may then determine the completion day. If there is no appeal, the completion day will be the day proposed in the notice.

Article 25B provides that where the completion day has been determined and a new building is not occupied on that day, it is deemed to become unoccupied on that day. If the building is one to which Schedule 8A applies, the person entitled to possession of it will be liable to the vacant rate from that day. If the building is not in fact completed by the day determined as the completion day, this Article provides that the building will be valued as if it were complete on that day and in a reasonable state of repair. This completion notice system is designed to circumvent the deliberate non-completion of a new building in order to evade liability for the rate.

Schedule 8B also provides that, while an appeal is pending, the person entitled to possession will continue to be liable to the vacant rate on the basis of the date proposed in the completion notice. An obligation is placed on the Department to make Regulations providing for the amount chargeable to be adjusted in light of the outcome of an appeal and, where appropriate, for a refund of any overpayment to be made to the ratepayer.

Provision is also made for a building that requires further specialised “fitting out” or work which is customarily done after the building is substantially completed. In this case, it is assumed that the proposed completion day will be such as would allow a reasonable time for the fitting out to be completed (for example, leaving out of account any time required for securing a tenant).