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STATUTORY INSTRUMENTS

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**2006 No. 2954**

**The Rates (Amendment) (Northern Ireland) Order 2006**

**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.