Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2006 No.

NORTHERN IRELAND

The Rates (Capital Values, etc.) (Northern Ireland) Order 2006

Made - - - - 2006
Coming into operation in accordance with Article 1(2) and (3)

At the Court at Buckingham Palace, the ** day of ** 2006

Present,

The Queen's Most Excellent Majesty in Council

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

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) 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:–

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Rates (Capital Values, etc.) (Northern Ireland) Order 2006.

(2) This Article and Articles 2 and 15 shall come into operation on the expiration of 7 days from the day on which this Order is made.

(3) Except as provided by paragraph (2), this Order shall come into operation on such day or days as the Department may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"the Commissioner" has the same meaning as in the principal Order;

"the Department" means the Department of Finance and Personnel;

"district" means a local government district;

"district valuer" has the same meaning as in the principal Order;

"dwelling-house" shall be construed in accordance with paragraph 1 of Schedule 1;

"hereditament" has the same meaning as in the principal Order;

"the principal Order" means the Rates (Northern Ireland) Order 1977 (NI 28);

"private garage" has the meaning given by paragraph 2 of Schedule 1;

"private storage premises" has the meaning given by paragraph 3 of Schedule 1;

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

PART II

CAPITAL VALUE

Application of this Part

3.—(1) Subject to paragraph (2), this Part applies to the following hereditaments—

(a) any dwelling-house;

(b) any hereditament which, though not a dwelling-house, is used partly for the purposes of a private dwelling;

(c) any private garage;

(d) any private storage premises.

(2) If the Commissioner or the district valuer considers that a hereditament which is not in use will when next in use fall within any sub-paragraph of paragraph (1), the hereditament shall be deemed for the purposes of this Part to be in use and to fall within that sub-paragraph.

(3) Schedule 1 (which makes further provision for the purposes of this Part) shall have effect.

"Capital value"

4. Schedule 2 (which makes provision for determining the capital value of a hereditament for the purposes of this Part) shall have effect.

Publication of capital values

5.—(1) The Commissioner may publish the capital value of any hereditament to which this Part applies.

(2) In the case of a hereditament which falls within Article 3(1)(b), the Commissioner may publish only its domestic capital value.

(3) In paragraph (2) "domestic capital value" means that portion of the capital value which can reasonably be regarded as attributable to the use of the hereditament for the purposes of a private dwelling.

(4) The Commissioner may publish such particulars in addition to the capital value or domestic capital value of the hereditament as the Department may determine.

Publication of list of total published values for each district

6. The Commissioner may publish a list of the total of—

(a) the capital values published under Article 5(1); and

(b) the domestic capital values published under Article 5(2),

in respect of each district in which the hereditaments are situated.

Revision of capital values, etc., by the Commissioner

7. The Commissioner may revise—

(a) any value or particulars published under Article 5;

(b) any list published under Article 6,

and may publish the revised value, particulars or list.

Manner and form of publication

8. The manner and form of publication under this Part shall be determined by the Department.

PART III

RELIEFS

Increased reduction of rates for certain hereditaments used for recreation

9. In Article 31 of the principal Order (percentage reduction of rates on certain hereditaments used for recreation)—

(a) in paragraph (3); and

(b) in paragraph (4),

for "65" substitute "80".

Repayment and recovery of hardship relief

10.—(1) Article 33B of the principal Order (hardship relief) shall be amended as follows.

(2) In paragraph (1)—

(a) for the word "remit" there shall be substituted the word "repay";

(b) the words "which a person is liable to pay" shall cease to have effect;

(c) in sub-paragraph (b), for the words "remission that" there shall be substituted the words "repayment a".

(3) In paragraph (2)—

(a) for the words "paragraph (1)" there shall be substituted the words "this Article "reduce" includes remit,";

(b) after the word "payable" there shall be inserted the words "or paid";

(c) after the word "prescribed" there shall be added the words "and "repay" means repay in whole or in part".

(4) In paragraph (4)—

(a) in sub-paragraph (a), for the word "remission" there shall be substituted the word "repayment";

(b) in sub-paragraph (b), for the word "remission" there shall be substituted the word "repayment";

(c) after sub-paragraph (b) there shall be added the words

"; and

(c) provide for so much of any reduction or repayment under this Article as contravened a Community obligation to be recoverable from the person mentioned in paragraph (1) as if it were a debt due to the Department on account of a rate leviable on him".

Certain hereditaments to be wholly exempt from rates

11.—(1) After Article 41 of the principal Order (distinguishment in valuation list of hereditaments used for public, charitable or certain other purposes) there shall be inserted the following Article—

"**Distinguishment in valuation list of hereditaments occupied by certain bodies and used or made available for use for charitable purposes**

41A.—(1) There shall be distinguished in the valuation list as wholly exempt from rates any hereditament to which paragraph (2) applies which is occupied by a body which is not established or conducted for profit if the body is—

(a) listed in Schedule 13A; or

(b) a member of, or affiliated to, a body listed in Schedule 13A.

(2) This paragraph applies to a hereditament—

(a) which the Commissioner or the district valuer is satisfied is to a substantial extent used or made available for use for purposes which are declared by the Recreational Charities Act (Northern Ireland) 1958 (c. 16) to be charitable or are otherwise charitable—

(i) where the use is by the occupying body, subject to charges, if any, not more than necessary to defray reasonable expenses actually incurred by the body by reason of that use; or

(ii) where the use is not by that body, for a consideration, if any, not more than necessary to defray such expenses; and

(b) which is not a hereditament—

(i) to which Article 31 (reduction of rates on certain hereditaments used for recreation) or Article 41(2)(e) (exemption for recreational charities) applies; or

(ii) on which a person may under a licence (other than an occasional licence) or a protection order sell intoxicating liquor by retail; or

(iii) in respect of which a club is registered under the Registration of Clubs (Northern Ireland) Order 1996 (NI 23).

(3) Schedule 13A (listed bodies for purposes of this Article) shall have effect.

(4) The Department may by order made subject to affirmative resolution amend Schedule 13A by—

(a) adding any body which is not established or conducted for profit;

(b) omitting, or altering the description of, any body.

(5) Article 41(9) shall apply to any reference in this Article or Schedule 13A to a body or to a hereditament of a description mentioned in paragraph (2) as it applies to any reference to a body in that Article or to a hereditament of a description mentioned in paragraph (2)(a) to (e) of that Article.

(6) Expressions used in paragraph (2)(b)(ii) and in the Licensing (Northern Ireland) Order 1996 (NI 22) have the same meaning in paragraph (2)(b)(ii) as in that Order.".

(2) After Schedule 13 to the principal Order (hereditaments excluded from exemption) there shall be inserted as Schedule 13A the Schedule set out in Schedule 3.

Repeal of Article 41(2)(f) of principal Order with savings, etc.

12.—(1) Article 41(2)(f) of the principal Order (exemption for certain hereditaments used to an extent of not less than ten per cent. for certain charitable purposes) shall cease to have effect.

(2) Any hereditament which, immediately before the commencement of paragraph (1), was distinguished in the valuation list as exempt from rates to any extent by virtue of Article 41(2)(f) of the principal Order shall continue to be distinguished as exempt to that extent while it remains in the same occupation and Article 41A(1) of the principal Order does not apply to it.

(3) Where the Commissioner or the district valuer is satisfied that a hereditament should have been distinguished in the valuation list as exempt from rates to any extent by virtue of Article 41(2)(f) of the principal Order immediately before the commencement of paragraph (1), he shall distinguish the hereditament, or cause it to be distinguished, in the valuation list as exempt from rates to the extent that it should have been so distinguished immediately before the commencement of paragraph (1) while it remains in the same occupation and Article 41A(1) of the principal Order does not apply to it.

(4) Where the Commissioner or the district valuer is satisfied that a hereditament ("the replacement hereditament") is used by a body as a replacement for a hereditament which—

(a) is no longer occupied by that body; and

(b) is or was distinguished to any extent as exempt from rates,

he shall distinguish, or cause to be distinguished, the replacement hereditament in the valuation list as exempt from rates to that extent while the replacement hereditament remains in the same occupation and Article 41A(1) of the principal Order does not apply to it.

(5) In paragraph (4)(b) "is or was distinguished" means—

(a) is or should be distinguished in the valuation list under paragraph (3); or

(b) was immediately before the commencement of paragraph (1) distinguished in the valuation list by virtue of Article 41(2)(f) of the principal Order.

(6) Article 41(9) of the principal Order shall apply to any reference in this Article to a body or to a hereditament of a description mentioned in this Article as it applies to any reference to a body in that Article or to a hereditament of a description mentioned in paragraph (2)(a) to (e) of that Article.

(7) In the principal Order—

(a) in Article 31(2)(c)—

(i) "or (f)" shall cease to have effect;

(ii) at the end add "or by virtue of Article 12(2), (3) or (4) of the Rates (Capital Values, etc.) (Northern Ireland) Order 2006";

(b) in Article 41—

(i) in paragraph (3)(a), for "(e), or (f)" there shall be substituted "or (e)";

(ii) in paragraph (4), for "(e), or (f)" there shall be substituted "or (e)";