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. (N.I.)

NORTHERN IRELAND

The Rates (Amendment) (Northern Ireland) Order 2006

Made - - - - 2006

Coming into operation in accordance with Article 1

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 (Amendment) (Northern Ireland) Order 2006.

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

(3) The remaining provisions of this Order shall come into operation on such day or days as the Department may by order appoint.

(4) The Department shall not make an order under paragraph (3) in respect of Article 4 unless a matter falling within paragraph 11 of Schedule 3 to the Northern Ireland Act 1998 (c. 47) has become a transferred matter within the meaning of that Act.

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 Department" means the Department of Finance and Personnel;

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

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

PART II

GENERAL

Regional rate and district rate

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3. In Article 6 of the principal Order (regional rate and district rate), for paragraph (3) there shall be substituted the following paragraphs—

"(3) Subject to the provisions of this Order, a rate—

(a) shall be made and levied at an amount in the pound—

(i) in the case of a regional rate, on the rateable values of every hereditament;

(ii) in the case of a district rate, on the rateable values of every hereditament in the district; and

(b) shall, subject to paragraphs (4) and (5), be made and levied in accordance with the relevant valuation lists.

(4) In making the rate, the Department or the district council may disregard any alterations made in a valuation list after such date as the Department or the district council considers convenient for the purpose of fixing the amount in the pound of the rate.

(5) Where the rate is for a year beginning with the date on which a new valuation list is to come into force and is made before that date, the rate shall be made by reference to the new list (so far as it replaces an existing list).

(6) Different regional and district rates may be made and levied on the rateable net annual values of hereditaments and the rateable capital values of hereditaments in accordance with prescribed rules.".

Police purposes part of the regional rate

4. In Article 7 of the principal Order (making of rates), after paragraph (5) there shall be added the following paragraphs—

"(6) Where an order under paragraph (1) specifies an amount in the pound at which a regional rate is to be levied on the rateable capital value of hereditaments, the order shall specify the police purposes part.

(7) In paragraph (6) "the police purposes part" means an estimate of how much (if any) of that amount will be applied towards expenditure for any police purposes within the meaning of the Police (Northern Ireland) Act 2000.".

Rateable values

Rateable values

5.—(1) For Article 17 of the principal Order (ascertainment of rateable value) and the immediately preceding cross-heading there shall be substituted the following—

"Rateable values

Rateable values

17.—(1) For the purposes of this Order the rateable values of a hereditament are—

(a) its rateable net annual value (if any); and

(b) its rateable capital value (if any).

(2) For the purposes of this Order the rateable values of a hereditament shall be ascertained in accordance with the provisions of Schedule 7.".

(2) In Schedule 7 to the principal Order (rateable value of hereditaments), for paragraph 1 there shall be substituted the following paragraph—

"**1.** Except as provided to the contrary in this Schedule—

(a) the rateable net annual value of any hereditament shall be its net annual value (if any); and

(b) the rateable capital value of any hereditament shall be its capital value (if any).".

Liability to be rated according to rateable values

6. For Article 18 of the principal Order (liability to be rated in respect of hereditaments) there shall be substituted the following Article—

"**Liability to be rated in respect of hereditaments**

18.—(1) Subject to the provisions of this Order, every occupier of a hereditament which is included in the valuation lists shall be chargeable to rates in respect of the hereditament according to its rateable values.

(2) In respect of a specified hereditament which has a rateable capital value regulations may—

(a) specify, or provide for there to be determined under the regulations—

(i) its maximum capital value;

(ii) its minimum capital value;

(b) provide that a person shall be liable in respect of its—

(i) maximum capital value instead of its rateable capital value, if its rateable capital value exceeds its maximum capital value;

(ii) minimum capital value instead of its rateable capital value, if its rateable capital value is less than its minimum capital value;

(c) provide that references in specified provisions to its capital value or to its rateable capital value are to be construed as references to its maximum capital value or its minimum capital value as the case may be.

(3) In paragraph (2)—

"specified hereditament" means a hereditament which falls within a class specified in regulations under that paragraph;

"specified provisions" means provisions of, or made under, this Order specified in regulations under that paragraph.".

Liability to be rated in respect of hereditaments owned by the Housing Executive, etc.

7. After Article 23 of the principal Order (liability of occupier for rates unpaid by owner) there shall be inserted the following Article—

"**Liability to be rated in respect of hereditaments owned by the Housing Executive, etc.**

23A.—(1) Regulations may provide that a person shall be chargeable to rates in respect of a hereditament in the social sector as if its rateable capital value were such figure as may be determined by the Department (its "social sector value").

(2) The Department shall determine the social sector value so as to ensure that the amount of rates chargeable is such proportion of any rent payable to the owner as the Department considers appropriate.

(3) In this Article—

"hereditament in the social sector" means a hereditament which—

(a) is wholly owned by the Northern Ireland Housing Executive or such registered housing associations or other bodies as may be prescribed; and

(b) is not a hereditament of a prescribed description;

"registered", in relation to a housing association, means registered in the register maintained under Part II of the Housing (Northern Ireland) Order 1992 (NI 15).

(4) Regulations may provide—

(a) for such references in this Order to capital value or to rateable capital value as may be prescribed to be construed as references to social sector value in relation to a hereditament in the social sector; and

(b) for Articles 10 and 15(1)(b) to have effect subject to the regulations.".

Basis of valuation

8.—(1) In Article 39 of the principal Order (basis of valuation), for paragraph (1) there shall be substituted the following paragraphs—

"(1) For the purposes of this Order every hereditament shall, except as provided by paragraphs (1A) to (1C), be valued upon an estimate of its net annual value.

(1A) For the purposes of this Order the following hereditaments shall be valued upon an estimate of their capital value—

(a) any dwelling-house;

(b) any private garage;

(c) any private storage premises.

(1B) For the purposes of this Order, every hereditament which, though not a dwelling-house, is used partly for the purposes of a private dwelling shall be valued upon an estimate both of its net annual value and of its capital value.

(1C) For the purposes of paragraphs (1A) and (1B), any hereditament—

(a) which is not in use; and

(b) which the Commissioner or the district valuer considers will, when next in use, fall within any sub-paragraph of paragraph (1A) or within paragraph (1B),

shall be deemed to be in use and to fall within that sub-paragraph of paragraph (1A) or, as the case may be, within paragraph (1B).".

(2) In Part I of Schedule 12 to the principal Order (basis of valuation), after paragraph 6 there shall be inserted the following paragraphs—

"Capital value – general rule

7.—(1) Subject to the provisions of this Schedule, for the purposes of this Order the capital value of a hereditament shall be the amount which, on the assumptions mentioned in paragraphs 9 to 15, the hereditament might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant capital valuation date.

(2) In estimating the capital value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the capital values in that valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised.

(3) The assumptions mentioned in paragraphs 9 to 15 shall apply for the purposes of determining whether one hereditament is a comparable hereditament in the same state and circumstances as another with the omission of sub-paragraphs (2) and (3) of paragraph 12.

(4) In sub-paragraph (1) "relevant capital valuation date" means 1st January 2005 or such date as the Department may substitute by order made subject to negative resolution for the purposes of a new capital value list.

Capital value – the assumptions

8. In this paragraph and paragraphs 9 to 15—

"development" has the meaning given by Article 2(2) of the Planning Order;

"flat", in relation to a building, means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building;

"incumbrance" means any incumbrance, whether capable of being removed by the seller or not, except service charges;

"permitted development" means development for which planning permission is not required or for which no application for planning permission is required;

"Planning Order" means the Planning (Northern Ireland) Order 1991 (NI 11);

"planning permission" has the meaning given by Article 2(2) of the Planning Order;

"rentcharge" has the meaning given by section 27(1) of the Ground Rents Act (Northern Ireland) 2001 (c. 5).

9. The sale is with vacant possession.

10. The estate sold is the fee simple absolute or, in the case of a flat, a lease for 99 years at a nominal rent.

11. The hereditament is sold free from any rentcharge or other incumbrance.