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

2004 No. (N.I.)

NORTHERN IRELAND

The Rates (Amendment) (Northern Ireland) Order 2004

Made - - - - 2004

Coming into operation in accordance with Article 1

At the Court at Buckingham Palace, the ** day of ** 2004

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:—

Introductory

Title and commencement

1.—(1) This Order may be cited as the Rates (Amendment) (Northern Ireland) Order 2004.

(2) Except as provided by paragraphs (3) and (4), this Order shall come into operation on such day or days as the Department may by order appoint.

(3) This Article and Article 2 come into operation on the day after the day on which this Order is made.

(4) The following provisions come into operation on 1st April 2011—

(a) Article 3(1); and

(b) Article 9(2) and (3) and paragraph (1) of that Article so far as it relates to paragraph 1 of Schedule 3.

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;

"modify" has the meaning given by Article 2(2) of the principal Order;

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

Industrial hereditaments

Removal of exemption for industrial hereditaments

3.—(1) Paragraph 4 of Schedule 7 to the principal Order (which provides for the rateable value of industrial hereditaments which are distinguished in the valuation list as being occupied and used wholly for industrial purposes to be nil) shall cease to have effect on 1st April 2011.

(2) That paragraph and paragraph 4B of that Schedule shall have effect until that date as follows.

(3) In paragraph 4(2) before the word "nil" there shall be inserted the words "subject to sub-paragraph (3)".

(4) After paragraph 4(2) there shall be added the following sub-paragraphs—

"(3) For the purposes of sub-paragraph (2) the rateable value of a hereditament for any year specified in this sub-paragraph shall be the following percentage of its net annual value —

(a) for 2005–2006, 15 per cent.;

(b) for 2006–2007, 25 per cent.;

(c) for 2007–2008, 35 per cent.;

(d) for 2008–2009, 50 per cent.;

(e) for 2009–2010, 75 per cent.;

(f) for 2010–2011, 75 per cent.

(4) In sub-paragraph (3) "2005-2006" means the year ending on 31st March 2006 and similar expressions shall be construed accordingly.

(5) The Department may by order subject to affirmative resolution direct that for any percentage specified in sub-paragraph (3) there shall be substituted such other percentage as may be specified in the order.".

(5) In paragraph 4B(1) (rateable value of hereditaments occupied and used partly for industrial purposes or transport purposes and partly for other purposes), immediately before head (a) there shall be inserted the following head—

"(za) the relevant percentage (if any) specified in paragraph 4(3) of so much of its net annual value as is shown in the list as apportioned to the occupation and use of the hereditament for industrial purposes;".

Unoccupied hereditaments

Liability to be rated in respect of certain unoccupied hereditaments

4.—(1) After Article 25 of the principal Order (incidence of rates as between landlord and tenant) there shall be inserted the following Article—

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

25A.—(1) Subject to the provisions of this Order, if the conditions specified in paragraph (2) are satisfied a person shall be chargeable to rates in respect of a hereditament which is unoccupied.

(2) The conditions are—

(a) the hereditament is one to which Schedule 8A applies; and

(b) the person is entitled to possession of it.

(3) A person shall be chargeable to rates under this Article only in respect of a period during which—

(a) the hereditament is unoccupied; and

(b) both the conditions specified in paragraph (2) are satisfied.

(4) For the purposes of this Article a hereditament is unoccupied only if no person is in occupation of any part of it.

(5) For the purposes of this Article a hereditament which is not in use shall be treated as unoccupied if (apart from this paragraph) it would be treated as occupied by reason only of there being kept in or on the hereditament plant or machinery—

(a) which was used in or on the hereditament when it was last in use; or

(b) which is intended for use in or on the hereditament.

(6) Schedule 8A (which makes further provision relating to the liability to be rated in respect of certain unoccupied hereditaments) shall have effect.".

(2) After Schedule 8 to the principal Order (incidence of rates) there shall be inserted as Schedule 8A the Schedule set out in Schedule 1.

(3) The Department may by regulations make such provision as it thinks necessary or expedient for the purposes of this Article or in consequence of any provision made by or under this Article.

(4) Regulations under paragraph (3) may in particular modify any provision of the principal Order.

(5) Regulations under paragraph (3) shall not be made unless a draft of them has been laid before, and approved by resolution of, the Assembly.

New buildings

New buildings

5.—(1) After Article 25A of the principal Order (inserted by Article 4(1)) there shall be inserted the following Article—

"**New buildings**

25B.—(1) Schedule 8B (which makes provision with respect to the determination of a day as the completion day in relation to a new building) shall have effect.

(2) Where—

(a) a completion notice is served under Schedule 8B; and

(b) the building to which the notice relates is not completed on or before the relevant day,

then for the purposes of this Order the building shall be deemed to be completed on that day.

(3) For the purposes of paragraph (2) the relevant day in relation to a completion notice is—

(a) where an appeal against the notice is brought under paragraph 4 of Schedule 8B, the day determined under that Schedule as the completion day in relation to the building to which the notice relates; and

(b) where no appeal against the notice is brought under that paragraph, the day stated in the notice.

(4) Where—

(a) a day is determined under Schedule 8B as the completion day in relation to a new building, and

(b) the building is not occupied on that day,

it shall be deemed for the purposes of Article 25A to become unoccupied on that day.

(5) Where—

(a) a day is determined under Schedule 8B as the completion day in relation to a new building, and

(b) the building is one produced by the structural alteration of an existing building,

the hereditament which comprised the existing building shall be deemed for the purposes of Article 25A to have ceased to exist, and to have been omitted from the list, on that day.

(6) In this Article—

(a) "building" includes part of a building; and

(b) references to a new building include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes, or becomes part of, a different hereditament or different hereditaments.".

(2) After Schedule 8A to the principal Order (inserted by Article 4(2)) there shall be inserted as Schedule 8B the Schedule set out in Schedule 2.

(3) In Part I of Schedule 12 to the principal Order (basis of valuation — general rule), after paragraph 3 there shall be inserted the following paragraph—

"**3A.**—(1) In estimating the net annual value of a relevant hereditament during a deemed completion period, the actual state of the hereditament shall be taken to be a state of reasonable repair excluding any repairs which a reasonable landlord would consider uneconomic.

(2) In this paragraph—

"building" has the same meaning as in Article 25B;

"deemed completion period" means the period—

(a) beginning with the day on which the building is deemed to be completed by virtue of paragraph (2) of that Article; and

(b) ending on the day on which the building becomes capable of rateable occupation;

"relevant hereditament" means a hereditament which comprises a building which is deemed to be completed by virtue of that paragraph.".

Additional powers

Power of Department to require information where hereditament is unoccupied

6.—(1) In Article 26 of the principal Order (power of Department to require information as to ownership, etc., of hereditaments), after paragraph (2) there shall be inserted the following paragraphs—

"(2A) If a hereditament to which Schedule 8A applies is unoccupied and the name and address of the person entitled to possession of it are unknown to the Department, the Department may, for the purposes of this Order, serve a notice on any relevant person requiring him to provide to the Department in writing, within a period and in the manner specified in the notice, such prescribed information in respect of that hereditament as is required by the notice and is within his knowledge or control.

(2B) In paragraph (2A) "relevant person" means a district council or any person who the Department has reason to believe is or has been—

(a) a person on whom a notice may be served under paragraph (1) or (2);

(b) a person entitled to possession of the hereditament;

(c) a person doing estate agency work (within the meaning of the Estate Agents Act 1979);

(d) a statutory undertaker (within the meaning of the Planning (Northern Ireland) Order 1991 (NI 11)); or

(e) a communications provider (within the meaning of the Communications Act 2003 (c. 21)) or a public telecommunications operator (within the meaning of the Telecommunications Act 1984 (c. 12)).".

(2) In paragraph (3) of that Article (duty to comply with notice), for the words "paragraph (1) or (2)" there shall be substituted the words "this Article".

Powers of entry

7. After Article 26 of the principal Order (power of Department to require information) there shall be inserted the following Article—

"**Powers of entry of persons authorised by Department**

26A.—(1) Subject to paragraph (2), any person authorised by the Department in writing in that behalf may, on production if required of his credentials, at any reasonable time enter any land for the purpose of gathering information regarding that or any other land for the purposes of this Order.

(2) A power of entry under paragraph (1) shall only be exercisable in relation to hereditaments which are specified hereditaments within the meaning of Article 39A(3) (hereditaments other than dwelling-houses, etc.).

(3) Paragraphs (2) to (4) of Article 58 (powers of entry of valuers) shall apply for the purposes of this Article as they apply for the purposes of that Article.".

Additional relief

Hardship relief

8. After Article 33A of the principal Order (transitional rate relief) there shall be inserted the following Article—