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## STATUTORY INSTRUMENTS

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# 1977 No. 2157 (N.I. 28)

## Rates (Northern Ireland) Order 1977 <sup>F1</sup>

[21st December  
1977]

**F1** functions transf. SR 1999/481

### Modifications etc. (not altering text)

- C1** Order applied (with modifications) (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), 3(3), **Sch. 1 para. 1(3)**; S.R. 2006/146, **art. 2**
- C2** Order: functions transferred from Lord Chancellor to Department of Justice (12.4.2010) (except functions which are transferred by virtue of para. 9 of Sch. 4 to the Northern Ireland Act 2009 (c. 3)) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(1), **Sch. 17 para. 30** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

## PART I

### INTRODUCTORY

#### Title and commencement

- 1.—(1) This Order may be cited as the Rates (Northern Ireland) Order 1977.  
(2) *Commencement*

#### General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“building” includes a structure, whatever the method by which it has been erected or constructed;

“certified copy”, in relation to any valuation list or document, or any part of a valuation list or document, means a copy of the list or document or part certified to be a true copy by the Commissioner or by an officer of the Valuation Office authorised by the Commissioner to certify documents on his behalf for purposes of this Order;

“clerical error” includes an arithmetical error, the transposition of figures, a typographical error or any similar type of error, and also includes any erroneous insertion or omission or any misdescription;

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“the Commissioner” has the meaning assigned to it by Article 36(1);

“the Department” means the Department of Finance;

[<sup>F2</sup> “disabled person” means a person to whom section 1 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 applies;]

“district”, except in the expression “valuation district”, means a local government district;

“district council”, in connection with any hereditament or any entry or alteration in a valuation list in relation to any hereditament, means the district council for the district in which the hereditament is, or is treated as, situated;

“district rate” has the meaning assigned to it by Article 6(2), and in relation to any district council means a rate made by that council;

“district valuer” means an officer appointed as district valuer under Article 36(2), and in connection with any hereditament means the district valuer for the valuation district in which the hereditament is situated;

[<sup>F3</sup> “enterprise zone” means an area for the time being designated as an enterprise zone under the Enterprise Zones (Northern Ireland) Order 1981]

<sup>F4</sup>[<sup>F5</sup> “ fish farm ” means an undertaking for the culture of fish in respect of which a fish culture licence is in force under section 11 of the Fisheries Act (Northern Ireland) 1966 other than fish

(a) which are purely ornamental; or

(b) which are for exhibition;]

[<sup>F6</sup> “fishing engine” has the meaning assigned to it by section 206 of the Fisheries Act (Northern Ireland) 1966]

“gas” includes gas in a liquid state;

*Definition rep. by 1996 NI 2*

“hereditament” means property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list;

“levy”, in relation to a rate, includes assessing the rate and taking all steps necessary or expedient for the collection or recovery of sums due on account of the rate;

<sup>F4</sup>“minerals” includes stone, slate, clay, gravel, sand and other natural deposits except peat;

“modify” means making additions, omissions, amendments, adaptations, applications, extensions, restrictions and substitutions;

“net annual value” shall be construed in accordance with [<sup>F7</sup> Articles 39 to 39B;]

“new valuation list” means a valuation list containing a general revaluation of hereditaments;

“notice” means notice in writing;

“office premises” means any premises used wholly or mainly as an office or for office purposes;

“office purposes” includes the purposes of administration, clerical work and handling money; and “clerical work” includes writing, book-keeping, sorting papers, filing, typing, duplication, punching cards or tapes, machine calculating, electronically recording information and computing, drawing and the editorial preparation of matter for publication;

“operational land”, in relation to any body, means land which is used for the purpose of the carrying on of the body's undertaking, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used for the purpose of the carrying on of public utility undertakings;

“owner” means any person for the time being receiving or entitled to receive the rack rent of the hereditament in connection with which the word is used, whether on his own account or

as agent or trustee for another or who, if the hereditament were let at a rack rent, would so receive or be entitled to receive that rent;

“the penultimate year” in connection with any entry made or to be made in the valuation list for any year means the last but one year before that year;

“prescribed” [<sup>F2</sup> (except in the expression “prescribed recreation” in Articles 31 and 44(2A))] means prescribed by regulations;

“product”, in relation to a rate, means the product of the rate as ascertained in pursuance of regulations under Article 35;

“public utility undertaking” means<sup>F8</sup> a public supply undertaking or any other undertaking (including the undertaking of a dock authority or a railway company) conducted for purposes of public utility;

<sup>F4</sup>“rack rent”, in relation to a hereditament, means a rent which is not less than two-thirds of the net annual value of the hereditament or is a rent which has been fixed in accordance with the [<sup>F9</sup> Rent (Northern Ireland) Order 1978 ];

“rate” means a district rate or a regional rate, and,—

(a) where those rates are levied as if they were items of a single rate, includes the rate comprised of those items;

(b) where those rates are collected in<sup>F3</sup> . . . instalments, includes any such<sup>F3</sup> . . . instalment;

“rateable value” shall be construed in accordance with Article 17;

“regional rate” has the meaning assigned to it by Article 6(2);

“regulations” means regulations made by the Department<sup>F10</sup> of the Environment or the Department of Finance and Personnel as Article 61 may require];

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954 ;

“transferred provision” has the meaning assigned to it by section 1( g) of the Interpretation Act (Northern Ireland) 1954;

“valuation district” means a valuation district such as is mentioned in Article 36(2);

“valuation list” has the meaning assigned to it by Article 40(1);

“the valuation list” means the valuation list for the time being in force as altered in accordance with the provisions of Part III;

“year” means a financial year;

“the 1972 Order” means the Rates (Northern Ireland) Order 1972 .

(3) For the purposes of this Order,—

(a) where a hereditament consists of a right over land and the right is exercised by any person other than the occupier of the land or, where the land is not occupied for any other purpose, by any person other than the owner of the land, the person actually exercising the right shall be deemed to be the occupier of the hereditament;

(b) where any land is used temporarily or permanently for the exhibition of advertisements or for the erection of any hoarding, fence, post, wall or other structure used for the exhibition of advertisements; and—

(i) sub-paragraph ( a) does not apply, and

(ii) the land is not occupied for any other purpose,

the person who permits the land to be so used, or, if that person cannot be ascertained, the owner of the land, shall be deemed to be the occupier of the land.

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(4) Any reference in this Order to an alteration in the valuation list includes a reference to the insertion in the list, or the deletion from the list, of a hereditament.

(5) Any reference in this Order to a public general Act or Measure includes a reference to an Order in Council which has the same effect as such an Act or Measure.

*Paras. (6), (7) rep. by 1996 NI 2*

(8) Provisions of this Order which re-enact provisions of an order made under the 1972 Order shall have no greater effect by virtue of their re-enactment.

<b>F2</b>	1979 NI 4
<b>F3</b>	1983 NI 7
<b>F4</b>	prosp. insertion by 2004 NI 4
<b>F5</b>	1981 NI 13
<b>F6</b>	1994 NI 11
<b>F7</b>	1981 NI 13
<b>F8</b>	prosp. subst. by 2004 NI 4
<b>F9</b>	1978 NI 20
<b>F10</b>	1982 NI 6

**Interpretation: definitions relating to agricultural land, agricultural buildings and livestock and poultry buildings, and to industrial, railway and freight-transport hereditaments**

3. The definitions contained in Schedules 1 to 4 shall have effect for the purposes of this Order.

**Interpretation: definition of “dwelling-house”, etc.**

4. Schedule 5 shall have effect for the purpose of determining whether a hereditament is to be treated as a dwelling-house for the purposes of this Order, and for the purpose of determining to what extent certain hereditaments are to be treated as used for the purposes of a private dwelling.

**Interpretation: definitions of “material change of circumstances” and “the time of valuation”**

5. In this Order the expression “material change of circumstances” and, in relation to such a change, “the time of valuation” have the meanings respectively assigned to them by paragraphs 1 and 2 of Schedule 6.

## PART II

### RATING

#### *Making and levying of rates*

**Regional rate and district rate**

6.—(1) Rates shall be made for each year in accordance with the provisions of this Order—  
(a) by the Department; and  
(b) by district councils;  
and shall be levied in accordance with the provisions of this Order.

(2) In this Order, a rate made by the Department is referred to as a “regional rate” and a rate made by a district council is referred to as a “district rate”.

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

(a) shall be made and levied at<sup>[F11]</sup> an] amount in the pound—

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

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

<sup>[F11]</sup>and different rates may be made and levied on hereditaments of prescribed descriptions in accordance with prescribed rules;]

(b) shall be made in accordance with the valuation list, except that—

(i) in making the rate, the Department or the district council may disregard any alterations made in the 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; and

(ii) 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; and

(c) shall be levied in accordance with the valuation list.

**F11** 1996 NI 25

### **Making of rates**

7.—(1) A regional rate shall be made by an order of the Department which shall be subject to affirmative resolution.

(2) A district rate shall be made by a resolution of the district council.

(3) An order or resolution making a rate shall specify the amount in the pound at which the rate is to be levied.

(4) Before making an order making<sup>[F12]</sup> a] regional rate for any year, the Department shall take into consideration estimates of the amounts required to be raised by means of district rates for that year.

(5) A rate shall be treated as duly made notwithstanding that the order or resolution making the rate—

(a) is made without reference to individual hereditaments;

(b) does not take account of any exemption or relief in respect of rating conferred in relation to hereditaments of any description or particular hereditaments;

(c) is made, or in the case of an order comes into operation, after the beginning of the year for which the rate is made.

**F12** 1998 NI 22

### **Time of making of, determination of amount of, and notification of, district rate**

8.—(1) Not later than the prescribed date in each year every district council shall make<sup>[F13]</sup> a] district rate for the next-following year.

(2) The duty imposed on a council by Article 6(1) to make a rate for each year shall not be affected by failure to make the rate by the prescribed date.

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- (3) A district rate made for any year—
- (a) must be sufficient to provide for such part of the total estimated expenditure of the district council to be incurred during that year as is not to be met by other means; and
  - (b) may also include such additional amount as is, in the opinion of the district council, required—
    - (i) to cover expenditure previously incurred, or
    - (ii) to meet contingencies, or
    - (iii) to defray any expenditure which may fall to be defrayed before the date on which money to be received on account of the next subsequent district rate will first become available.
- (4) When a district council makes a district rate it shall, within the prescribed period after the rate is made,—
- (a) notify the Department in the prescribed manner of the amount in the pound of the rate; and
  - (b) publish notice of the rate in such manner as appears to the council to be suitable for bringing the rate to the notice of persons on whom the rate is to be levied.

**F13** 1998 NI 22

### Levying of rates

9.—(1) [<sup>F14</sup>A] regional rate and [<sup>F14</sup> a] district rate shall be levied by the Department in every district as if they were items of a single rate.

(2) For all purposes, including the purposes of section 4 of the Crown Debts (Ireland) Act 1781 , the whole of the rate comprised of the items mentioned in paragraph (1) shall be a debt due to the Crown.

(3) Without prejudice to the succeeding provisions of this Order with respect to the payment of rates in respect of certain hereditaments by instalments,—

- (a) a rate for any year shall be due and payable—
  - (i) if the rate is made before the commencement of that year, on 1st April in that year;
  - (ii) if the rate is made during that year, when the rate is made;

*Sub-para. (b) rep. by 1983 NI 7*

(4) The Department shall, when a rate has become due and payable, make demand of the respective sums from the persons charged therewith, by serving on each of those persons a demand note.

- (5) The demand note on which the rate is levied shall include information with respect to—
- (a) the situation of the hereditament in respect of which the demand note is issued;
  - (b) the rateable value and, where it differs from the rateable value, also the net annual value of the hereditament;
  - (c) the amounts in the pound at which the regional rate and the district rate are charged; and
  - (d) the period for which the rate is made;

but otherwise shall be in such form as the Department considers fit.

**F14** 1998 NI 22

### **Departures from valuation list in levying rates**

**10.**—(1) The Department, in levying a rate, may make such departures not affecting value from the particulars contained in the valuation list as may be necessary to enable the rate to be effectively levied in accordance with the provisions of this Order.

(2) Any departure under paragraph (1) shall be forthwith reported to the district valuer.

### **Appeal against rate**

**11.**—(1) Subject to paragraph (2), if a person—

- (a) is aggrieved by a district rate; or
- (b) is aggrieved by any neglect, act or thing done or omitted by the district council in connection with a district rate; or
- (c) has any material objection to the inclusion or exclusion of any person in or from, or to the amount charged to any person in, a regional rate or a district rate;

he may appeal to the county court; and notice of any such appeal shall be served on the Department and, if it relates to a district rate, the district council and shall also be served on any person other than the appellant with respect to whom the rate may be required to be altered in consequence of the appeal; and the Department or the district council or any such person shall, if it or he so desires, be heard on the appeal.

(2) An appeal shall not lie under this Article in respect of any matter in respect of which relief might have been obtained—

- (a) under Article 13(3) by means of an appeal as to the appropriate date for the taking effect of an alteration in the valuation list; or
- (b) under Article 31(4) by means of an appeal on a question arising under that Article; or
- (c) under Part III by means of—
  - (i) an application for revision of the valuation list; or
  - (ii) an appeal against the making or refusal of an alteration in the valuation list or an application for the review of such an alteration.

(3) A rate for any year shall be leviable notwithstanding that notice has been served of an appeal under this Article against the rate, except that, after such notice has been served by any person on the Department and until the appeal has been determined or abandoned, no proceedings shall be commenced or carried on to recover from that person any sum greater than—

- (a) the amount leviable by way of rates for the immediately preceding year in respect of the hereditament to which the appeal relates; or
- (b) if the hereditament was not included in the valuation list in force during that preceding year or any material change of circumstances affecting the hereditament was not taken into account for the purposes of that list, the amount which would have been so leviable if, at the beginning of that preceding year,—
  - (i) the hereditament had been included in the valuation list then in force or an alteration had been made in that list in relation to the hereditament by reason of that change of circumstances; and
  - (ii) the net annual value of the hereditament, or that value as altered by reason of that change of circumstances, had been included in that list at such amount as the district valuer certifies would have been so included if the facts had been as mentioned in head (i).

(4) Where on an appeal under this Article against a rate the court sees just cause to give relief, then—

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- (a) the court shall amend the rate in such manner as the court thinks necessary for giving the relief, and may for that purpose alter the amount of a district rate, but shall not quash or wholly set aside such a rate except as permitted by paragraph (5);
- (b) if it appears to the court that, as a result of any such amendment, any sum paid in consequence of the rate by any person before the hearing of the appeal ought not to have been paid by or charged on that person, the court shall order that sum to be repaid to that person by the Department together with all reasonable costs occasioned by that person having paid or been required to pay that sum;
- (c) if the rate is amended so as to make chargeable any person not previously charged or to increase the charge on any person, the rate as amended shall be leviable on that person in the like manner as if it had always been in its amended form.

(5) If, on an appeal under this Article against a district rate, the court is of the opinion that, for the purpose of giving relief to the appellant, it is necessary that the rate should be wholly quashed, the court may quash the rate; but in that case, subject to paragraph (6), all amounts charged by the rate shall be leviable in like manner as if no appeal had been made and, when paid or recovered, shall be treated as payments on account of the next effective rate.

(6) Where on an appeal under this Article the court orders a district rate to be quashed, the court may order that any sum charged on any person by that rate, or any part of a sum so charged, shall not be paid; and after the making of such an order no proceedings shall be commenced or continued for the purpose of levying that sum or part; but no person shall be liable to any action for any thing done by him for the purpose of levying any sum before he had notice of any order under this paragraph providing for that sum not to be paid.

*Art. 12 rep. by 1998 NI 22*

### **Effect of alteration in valuation list**

**13.—**(1) Where an alteration in relation to a hereditament is made in [<sup>F15</sup> a valuation list], then, for the purposes of levying any rate—

- (a) where—
  - (i) the list is a new valuation list, and
  - (ii) the alteration is made in consequence of an application for revision which was served on the district valuer before the end of the period of six months beginning with the date on which the list came into force, and
  - (iii) the hereditament was included in the valuation list last previously in force and, since the new list came into force, has not come into occupation [<sup>F16</sup> or become rateable under Article 25A] after having been out of occupation on account of structural alterations, or has not been affected by the happening of any event which is a material change of circumstance such as is mentioned in paragraph 1( b) to ( g) of Schedule 6, the alteration shall be deemed to have had effect on and after the date on which the list came into force;
- (b) where the alteration is made by way of correction of a clerical error, [<sup>F15</sup> that valuation list] shall have effect, and be deemed always to have had effect, as so corrected;
- (c) where the alteration—
  - (i) consists of the inclusion in [<sup>F15</sup> that valuation list] of a newly erected or newly constructed hereditament or an altered hereditament which has been out of occupation on account of structural alterations [<sup>F16</sup> and has not become rateable under Article 25A], or



- (ii) [<sup>F17</sup>consists of the revision in that valuation list of an altered hereditament which has been out of occupation on account of structural alterations<sup>F16</sup> and has not become rateable under Article 25A] or] is made by reason of any event which is a material change of circumstances such as is mentioned in paragraph 1( b) to ( g) of Schedule 6, the alteration shall<sup>F18</sup> subject to<sup>F17</sup> paragraphs (1A) and (1B)]<sup>F19</sup> be deemed to have had effect on and after the date on which the new or altered hereditament came into occupation<sup>F16</sup> (or became rateable under Article 25A if earlier)] or, as the case requires,] the date of the happening of the event by reason of which the alteration is made;
- (d) where the alteration is made by the Commissioner under Article 50(1)( a)(iv) to show the net annual value for any year of a hereditament such as is there mentioned, the alteration shall be deemed to have been made at the beginning of that year;
- (e) where the alteration is made pursuant to Article 55 on a review, following the final disposal of an appeal to the Lands Tribunal, of [<sup>F15</sup> an alteration in, or decision not to alter, a valuation list or of a revaluation ( “the interim revision”)], the alteration shall be deemed to have had effect on and after the same date as that on which any alteration which was made or could have been made in consequence of [<sup>F15</sup> the interim revision] had or would have had effect;
- (f) where neither sub-paragraph ( a), ( b), ( c), ( d) nor ( e) applies the alteration shall have effect, or be deemed to have had effect,—
- (i) on and after the date of the commencement of the year in which the application was made for the revision of [<sup>F15</sup> that valuation list] in consequence of which the alteration is made (whether the alteration is made immediately following the revision or on appeal), or, if the alteration is made otherwise than in consequence of an application, the year in which a certificate of the alteration [<sup>F15</sup> was served] on the occupier of the hereditament (or, if the alteration is made on a review under Article 51(2) or on appeal, the year in which a certificate of the alteration that is the subject of the review or appeal, or was the subject of any earlier review or appeal, was so served), or
- (ii) on and after such later date (if any) as is appropriate in all the circumstances.

[<sup>F20</sup>(1A) Where an alteration falling within paragraph (1)(c) increases or decreases the net annual value ascribed to the hereditament by an amount not exceeding—

- (a) in the case of a specified hereditament (as defined by Article 39A(3)),<sup>F21</sup> £250]; or
- (b) in any other case £30,

or such other amount as the Department in each such case may by order subject to affirmative resolution substitute, the alteration shall have effect on and after the date of the commencement of the year immediately following the year in which the alteration is made.]

[<sup>F17</sup>(1B) Where an alteration falling within paragraph (1)(c) is made by reason of more than one event which are material changes of circumstances, so much of the alteration as is made by reason of each event shall be deemed to have had effect on and after the date of the happening of that event.

(1C) For the purpose of paragraph (1B), the district valuer may, on an application made by any person, issue a certificate specifying the amount of the net annual value ascribed to the hereditament which is attributable to any event which is a material change of circumstances.

(1D) Any person who is aggrieved by any certificate issued by the district valuer under paragraph (1C) may appeal to the Commissioner, and the provisions of Articles 51 to 54 shall, with the appropriate modifications, apply in relation to an appeal under this paragraph.]

- (2) Any question as to the appropriate date for the purposes of paragraph (1)(f)(ii)—

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- (a) if it arises in connection with a decision of the Lands Tribunal on an appeal to the Tribunal under the succeeding provisions of this Order, may be determined by the Tribunal; or
  - (b) if it is not so determined, shall in the first instance be determined by the Department.
- (3) Notice of any determination under sub-paragraph ( b) of paragraph (2) shall be served by the Department on the occupier of the hereditament, and—
- (a) any person aggrieved by a determination made by the Department under that sub-paragraph may appeal to the Lands Tribunal; and
  - (b) on such an appeal the Lands Tribunal may give such directions in the matter as it considers appropriate.
- (4) Where the alteration affects the amount levied on account of a rate in respect of any hereditament in accordance with the list, 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.
- (5) Except where the alteration is made by way of correction of a clerical error, no liability shall be imposed or right conferred on any person by virtue of paragraph (4) to pay or receive the difference referred to in that paragraph if that person had ceased to occupy the hereditament in question before the date of service of the application for revision of the valuation list in consequence of which the alteration was made, or if the alteration was made otherwise than in consequence of an application, the date of service on the occupier of the hereditament of the certificate of the alteration.
- [<sup>F16</sup>(5A) For the purposes of paragraph (1)(a)(iii) and (c) a hereditament becomes rateable under Article 25A on the date on which a person becomes chargeable to rates under that Article in respect of the hereditament.]
- (6) In paragraphs (1)(f)(i), (3) and (5) “occupier” includes an owner who is rated instead of the occupier under Article 20 or who enters into an agreement with the Department under Article 21<sup>F16</sup> and a person who is chargeable to rates under Article 25A]; and in paragraph (5) “occupy” shall be construed accordingly.

<b>F15</b>	1979 NI 4
<b>F16</b>	2004 NI 4
<b>F17</b>	1994 NI 11
<b>F18</b>	1982 NI 2
<b>F19</b>	1996 NI 25
<b>F20</b>	SR 1997/144
<b>F21</b>	SR 2003/73

#### **Rating on basis of apportioned value in certain cases**

**14.**—(1) Subject to paragraph (3), where it appears to the Department that part of a hereditament included in the valuation list is occupied, and that some other part of the hereditament is unoccupied, but is likely to remain unoccupied for a short time only, the district valuer—

- (a) at the request of the Department; and
  - (b) with the agreement of the occupier as to the extent of those parts;
- if he is satisfied that the parts are capable of separate occupation, may apportion the net annual value of the hereditament between the occupied and the unoccupied parts and certify the extent to which the net annual value is attributable to each such part.

(2) Where the net annual value of a hereditament is apportioned under paragraph (1), then, as from—

- (a) the commencement of the year in which the request was made; or
  - (b) the date on which the hereditament became partly occupied and partly unoccupied,
- whichever is the later, and until—
- (i) the unoccupied part becomes occupied; or
  - (ii) a further apportionment is made under paragraph (1); or
  - (iii) an alteration is made in the valuation list in pursuance of an application for revision made by reason of the hereditament being occupied in parts,

each such part of the hereditament and so much of the net annual value of the hereditament as is apportioned to each such part shall be treated for the purposes of this Part as if they were included in the valuation list as, respectively, a separate hereditament and its net annual value.

(3) Paragraph (1) shall not apply to a hereditament where the owner is rated under Article 20 or has undertaken under Article 21(1)(a) or ( b) to pay the rates chargeable in respect of the hereditament.

### Refund of overpayments

**15.**—(1) Without prejudice to Articles 11(4)( b), 13(4)( a), 19(4), 27(5)( a) and [<sup>F22</sup> 31(5)( a)]<sup>F23</sup> and paragraph 3 of Schedule 8A], but subject to paragraph (2), where it is shown to the satisfaction of the Department that any amount paid on account of a rate, and not recoverable apart from this Article, could properly be refunded on the ground that—

- (a) the amount of any entry in a valuation list was excessive; or
  - (b) the rate was levied otherwise than in accordance with the valuation list then in force; or
  - (c) any exemption or relief to which a person was entitled was not allowed; or
  - (d) the hereditament was unoccupied during any period; or
  - (e) the person who made a payment in respect of the rate was not liable to make that payment,
- the Department may refund that amount or a part of it.

(2) No amount shall be refunded under paragraph (1)—

- (a) unless application for the refund was made before the end of the sixth year after that in which the amount was paid; or
- (b) if the amount paid was charged on the basis, or in accordance with the practice, generally prevailing at the time when the payment was demanded.

**F22** 1979 NI 4

**F23** 2004 NI 4

VALID FROM 01/12/2006

### [<sup>F24</sup>Payment of interest

**15A.** Regulations may make provision for interest calculated in accordance with the regulations to be payable by the Department in such manner and in such circumstances as may be prescribed.]

**F24** Art. 15A inserted (1.12.2006) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 34; S.R. 2006/464, art. 2(2), Sch. 2

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### **Certificates and statements as to rates, etc.**

16.—(1) A certificate signed by a person authorised by the Department to exercise functions under this paragraph stating—

- (a) the net annual value or the rateable value of a hereditament at a date specified in the certificate; or
- (b) the amount of rates chargeable in respect of the hereditament; or
- (c) whether any, and if so what, amount has been paid in satisfaction of such rates;

shall be admissible in any proceedings as sufficient evidence of the matters stated in the certificate and that the amount stated under sub-paragraph ( b ) or, as the case may be, the difference between the amounts stated under sub-paragraphs ( b ) and ( c ) is unpaid and is due to the Department; and a document purporting to be such a certificate as is mentioned in this paragraph shall be deemed to be such a certificate until the contrary is proved.

(2) A certificate of a district council stating that a district rate of a specified amount in the pound has been made or published by the council on a date specified in the certificate shall be admissible in any proceedings as sufficient evidence of the matters stated in the certificate.

(3) The Department shall, on being so requested by a person who is or was liable in respect of a hereditament for rates for any period in the current year or any year preceding that year give him—

- (a) a statement of the rates payable in respect of the hereditament for any of those years in respect of which he is still liable for arrears at the time of the request;
- (b) a statement of the rates paid in respect of the hereditament for any of those years, not being a year earlier than the ninth preceding year or 1st October 1973, whichever is the later.

(4) Where a person satisfies the Department that he is or was liable, in respect of a hereditament, to indemnify any other person for rates, he shall be entitled to the like statement under paragraph (3) as that other person is entitled to.

### *Rateable value*

#### **Ascertainment of rateable value**

17. For the purposes of this Order the rateable value of a hereditament shall be ascertained in accordance with the provisions of Schedule 7.

### *Liability and assessment*

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

18. Subject to the provisions of this Order, every occupier of a hereditament which is included in the valuation list shall be chargeable to rates in respect of the hereditament according to its rateable value.

#### **General provisions as to liability and assessment to rate**

19.—(1) The following general provisions shall have effect with respect to the assessment of persons to, and their liability on account of, a rate in respect of any hereditament for any year.

(2) A person who is in occupation of the hereditament for part only of the year shall, subject to the provisions of this Article, be liable to be charged with such part only of the total amount of the rate as bears to that amount the same proportion as the number of days during which he is in occupation bears to the total number of days in the year.

(3) A person who is in occupation of the hereditament for any part of the year may be assessed to the rate in accordance with the provisions of paragraph (2) notwithstanding that he ceased to be in occupation before the rate was made.

(4) A person who is in occupation of the hereditament at any time after the rate is made may be assessed to and shall in the first instance be liable to pay—

- (a) if he was in occupation at the beginning of the year, the whole of the amount charged in respect of the hereditament; or
- (b) if he came into occupation subsequently, a proportion of that amount calculated on the basis that he will remain in occupation until the end of the year,

but shall, if he goes out of occupation before the end of the year, be entitled to recover from the Department any sums paid by him in excess of the amount properly chargeable against him in accordance with the provisions of paragraph (2)<sup>F25</sup> and paragraph 3(2) of Schedule 8A], except that—

- (i) no allowance shall be made for a period of less than seven days;
- (ii) a person shall not be entitled to recover any such sum unless he makes application in writing to the Department within three months after he ceases to be the occupier of the hereditament<sup>F25</sup> or chargeable to rates in respect of the hereditament by virtue of Article 25A, whichever is the later];
- (iii) a person shall not be entitled to recover any such sum in so far as he has previously recovered it from an incoming occupier.

(5) Where the name of any person liable to be rated as occupier of any hereditament is not known to the Department, it shall be sufficient to assess him to the rate by the description of the “occupier” of the hereditament (naming it) in respect of which the assessment is made, without further name or description.

F25 2004 NI 4

### Rating of owners instead of occupiers in certain cases

**20.**—(1) Subject to the provisions of this Order, rates shall be payable by, and levied on, the owner, instead of the occupier, of a hereditament where—

- <sup>F26</sup>(a) the net annual value of the hereditament does not exceed—
  - (i) in the case of a specified hereditament,<sup>F27</sup> £750]; or
  - (ii) in any other case, £85;
- (b) the hereditament is let to weekly or monthly tenants and its net annual value is less than—
  - (i) in the case of a specified hereditament,<sup>F27</sup> £1,590]; and
  - (ii) in any other case, £200,and for this purpose “specified hereditament” has the meaning assigned to it by Article 39A(3).]
- (c) separate parts of the hereditament are let as apartments or lodgings.

(2) Where any owner is rated under this Article, he shall be entitled to such relief in respect of any non-occupation of the hereditament as he would have been entitled to receive had he been rated as the occupier in respect thereof.

(3) Notwithstanding anything in paragraph (1), so long as a person who has wilfully entered upon a hereditament such as is mentioned in sub-paragraph (a) of that paragraph with intent wrongfully to take possession of, or use, the hereditament is in occupation of the hereditament without the

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permission of the owner, that person, and not the owner, shall be chargeable to rates in respect of the hereditament.

(4) There shall be allowed to each owner who is rated under this Article and pays the amount due from him on account of the rate on or before the date of the expiration of—

(a) half the year for which the rate is made<sup>F28</sup>. . . ; or

(b) one month from the date of service of the demand note on which the rate is levied;

whichever is the later, an allowance equal to 7½ per cent. of the amount payable.

(5) The Department may by order made subject to affirmative resolution substitute a different limit for that specified in sub-paragraph ( a ) or ( b ) of paragraph (1); but any such order shall not affect any person's liability for rates for any period before the coming into force of the first new valuation list to come into force after the date of the order.

**F26** SR 1997/144

**F27** SR 2003/73

**F28** 1983 NI 7

### Payment or collection of rates by owners by agreement

21.—(1) The owner of any hereditament the rent of which becomes payable or is collected at intervals shorter than quarterly may by agreement in writing with the Department undertake<sup>F29</sup> that he will pay the rates chargeable in respect of the hereditament whether it is occupied or not] and the Department may agree, where the owner so undertakes and pays over to the Department on or before the date or dates specified in the agreement the amounts payable by him thereunder, to make him an allowance not<sup>F29</sup> exceeding 10 per cent.]

(2) An allowance made under paragraph (1) in respect of any hereditament to an owner who is rated under Article 20 shall be in substitution for any allowance to which he might otherwise have been entitled in respect of that hereditament under that Article.

(3) An agreement entered into under this Article shall continue in force until determined by notice served either by the Department on the owner or by the owner on the Department, and, in the event of a change in the ownership of any hereditament while the agreement is in force, shall continue to be binding upon the new owner as if it had been made by him.

(4) A notice for the purposes of paragraph (3) shall take effect only on the expiration of a year and shall be given not less than six months before the expiration of that year.

*Paras. (5), (6) rep. by 1998 NI 22*

**F29** 1998 NI 22

### Provisions supplementary to Articles 20 and 21

22.—(1) Where in the case of any hereditament the owner is rated in respect thereof in pursuance of Article 20, or has undertaken in pursuance of Article 21 to pay or collect the rates charged in respect thereof, the amount due from him on account of those rates shall be recoverable by the Department from him in like manner and subject to the like conditions as rates payable by the occupier of a hereditament (not being an occupier by whom a notice under Article 29 of his election to pay rates by instalments has been given and is for the time being in force) are recoverable from the occupier.

(2) The Department may serve on an owner who is rated under Article 20 instead of the occupier or who enters into an agreement with the Department under Article 21 a notice requiring him to state to the Department in writing, within a period and in the manner specified in the notice,—

- (a) the names and addresses of the occupiers of the hereditaments in respect of which he is so rated or has so agreed; and
- (b) such particulars with respect to the periods for which any of those hereditaments have been unoccupied and with respect to the amount which he has failed to collect from the occupiers as the Department may require for the purpose of enabling it to determine what amount is properly due from the owner under Article 20 or 21;

and the owner shall comply with the notice.

(3) Where the name of any person liable to be rated as owner of any hereditament is not known to the Department, it shall be sufficient to assess him to the rate by the description of the “owner” of the hereditament (naming it) in respect of which the assessment is made, without further name or description.

<sup>F30</sup>(4) The Department may by order direct that for any percentage mentioned in Article 20(4) or 21(1) there shall be substituted such other percentage as may be specified in the order.

(5) An order under paragraph (4) shall be subject to affirmative resolution and shall have effect from the beginning of the year after that in which it is made.]

**F30** 1981 NI 13

### **Liability of occupier for rates unpaid by owner**

**23.**—(1) Notwithstanding that the owner of a hereditament is liable for, or has undertaken, payment of the rates assessed thereon, if—

- (a) any sum due on account of a rate in respect of the hereditament is not paid by the owner on or before—
  - (i) where the sum is payable under Article 20, the date mentioned in paragraph (4) of that Article; or
  - (ii) where the sum is payable under an agreement entered into under Article 21, the date specified in that agreement which is applicable in relation to that sum; or
- (b) a notice has been served on the occupier of the hereditament under Article 26(1) and he has not complied with it;

any sum due on account of a rate in respect of the hereditament shall, without prejudice to any liability of the owner, become payable by, and, subject to paragraph (2), may be levied on, the occupier of the hereditament.

(2) The occupier shall not be compelled to pay to the Department under this Article at any time any sum greater than the amount of rent due from him at that time, unless a notice has been served on him under Article 26(1) and he has not complied with it.

(3) Where an occupier pays under paragraph (1) any sum due on account of a rate which, if it had been paid by the owner, would not give rise to a payment by the occupier under paragraph 3 of Schedule 8, then, notwithstanding any covenant or agreement to the contrary,—

- (a) the occupier may deduct the amount of the payment from the rent due to the owner; and
- (b) if the amount of rent due is less than the amount of the payment, the occupier—
  - (i) may deduct the difference between those amounts from the rent accruing due to the owner then or in the future, or
  - (ii) may recover that difference from the owner as a debt;

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and every payment in respect of which a deduction is made under sub-paragraph (a) or (b)(i) shall be a valid discharge of the rent to the extent of the payment.

VALID FROM 01/12/2006

**[<sup>F31</sup>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.]

**F31** Art. 23A inserted (1.12.2006) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 7; S.R. 2006/464, art. 2(2), Sch. 2

**Recovery of rates from tenants and lodgers**

**24.**—(1) Without prejudice to Article 23, where the rates due from the person rated in respect of any hereditament are in arrear, the Department may serve on any person paying rent for that hereditament, or any part thereof, to the person from whom the arrears are due a notice stating the amount of those arrears of rates and requiring all future payments of rent (whether already accrued due or not) by the person paying rent to be made direct to the Department until those arrears are duly paid; and that notice shall operate to transfer to the Department the right to recover, receive and give a discharge for that rent.

(2) In this Article, “rent” includes a payment made by a lodger.

**Incidence of rates as between landlord and tenant**

**25.** The provisions of Schedule 8 shall have effect for regulating the incidence of rates as between landlord and tenant in the circumstances mentioned in that Schedule.



### [<sup>F32</sup>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.]

F32 2004 NI 4

### [<sup>F33</sup>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—

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(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.]

**F33** 2004 NI 4

### **Power of Department to require information as to ownership, etc., of hereditaments**

**26.**—(1) The Department may, for the purposes of this Order, serve a notice on the occupier of any hereditament, or a person paying rent in respect of a hereditament, requiring him to state to the Department in writing, within a period and in the manner specified in the notice,—

- (a) the nature of his own interest therein;
- (b) the rate at which rent (if any) is payable by him and the dates on which it falls due;
- (c) the amount of rent (if any) then due from him;
- (d) the name and address of the owner of the hereditament.

(2) Where the Department has reason to believe that a person is receiving or is entitled to receive rent in respect of a hereditament in the capacity of agent or trustee for any other person, the Department may, for the purposes of this Order, serve a notice on him requiring him to state to the Department in writing, within a period and in the manner specified in the notice,—

- (a) the nature of that capacity;
- (b) the name and address of that other person;
- (c) such particulars of—
  - (i) the rents paid or payable to him in that capacity,
  - (ii) the hereditaments in respects of which the rents are payable, and
  - (iii) his receipts and disbursements on account of such rents,
 as are required by the notice.

[<sup>F34</sup>(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)).]
- (3) Where a notice is served on a person under<sup>[F34]</sup> this Article] he shall comply with the notice.
- (4) In this Article—
- “hereditament” includes part of a hereditament;
  - “rent” includes a payment made by a lodger.

**F34** 2004 NI 4

### <sup>[F35]</sup>**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.]

**F35** 2004 NI 4

### *Special reliefs in respect of dwellings*

#### **Reduction of regional rate on dwellings**

**27.**—(1) The amount which, apart from this Article, would be payable on account of<sup>[F36]</sup> a] regional rate in respect of—

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

shall for each year be reduced in accordance with paragraphs (2) and (3) respectively.

(2) The reduction for any year in respect of a dwelling-house shall be effected by reducing the normal regional rate by the amount fixed for that year under paragraph (4).

(3) The reduction for any year in respect of a hereditament which, though not a dwelling-house, is used partly for the purposes of a private dwelling shall be effected by computing separately—

- (a) so much of the amount payable as is referable to the domestic element of the rateable value of the hereditament, and
  - (b) so much (if any) of that amount as is referable to the non-domestic element;
- and by reducing the normal regional rate, for the purpose of the computation mentioned in subparagraph ( a), by the amount fixed for that year under paragraph (4).

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(4) The Department shall, by order made subject to affirmative resolution, fix for each year the amount by which the normal regional rate is to be reduced for the purposes of paragraph (2) and paragraph (3).

(5) Where, during part only of a year, a hereditament either is a dwelling-house or is used partly for the purposes of a private dwelling, the reduction to be made in pursuance of paragraph (1) shall be made for that part of the year only; and, if the reduction, or any adjustment in it, affects the amount levied on account of a rate in respect of the hereditament for that 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.

<sup>F37</sup>(5A) *This Article applies to a private garage and private storage premises as it applies to a dwelling-house.*]

(6) In this Article—

“the normal regional rate” for any year in respect of any hereditament means the amount which, apart from this Article, would be the amount in the pound of<sup>F36</sup> a] regional rate to be levied for that year in respect of that hereditament;

“the domestic element of the rateable value of the hereditament” means so much of the rateable value as consists of or is derived from the amount of the net annual value apportioned in the valuation list to the use of the hereditament for the purposes of a private dwelling; and “the non-domestic element” means so much of the rateable value as consists of or is derived from the amount so apportioned to the use of the hereditament for other purposes;

[<sup>F37</sup> “private garage” means a hereditament of an area not exceeding 25 square metres which is used wholly or mainly for the accommodation of a motor vehicle, other than a hereditament which

- (a) forms part of premises in which a business of providing services for motor vehicles is carried on, or
- (b) is provided by the keeper of a hotel, inn, guest-house or boarding-house and used wholly or mainly for the motor vehicles of his guests, or
- (c) is used for the accommodation of a motor vehicle for the time being chargeable with duty under Schedule 2, 3 or 4 to the Vehicles (Excise) Act (Northern Ireland) 1972 (hackney carriages, tractors and goods vehicles) whether it is also used for any other vehicle or not;

“private storage premises” means a hereditament which is used wholly in connection with a dwelling-house or dwelling-houses and so used wholly or mainly for the storage or accommodation of any of the following articles belonging to persons residing in that dwelling-house or those dwelling-houses

- (a) household stores and other articles for domestic use; and
- (b) light vehicles, whether mechanically-propelled or not.]

**F36** 1998 NI 22

**F37** 1981 NI 13

*Art. 28 rep. by 1983 NI 14*

### **Right to pay rates on dwellings by instalments**

**29.**—<sup>F38</sup>(1) Subject to paragraph (1A) any person who is the occupier of a hereditament which is not a hereditament in respect of which the owner is rated under Article 20 or has entered into an agreement with the Department under Article 21 may by notice to the Department served in

accordance with paragraph 1 of Schedule 9 elect to pay rates in respect of that hereditament by instalments in accordance with that Schedule; and, as from the date which under the said paragraph 1 is the effective date of that notice until, in pursuance of Article 30(3) or paragraph 6 of Schedule 9, that notice ceases to be in force, any rates for the year in which that date falls or any subsequent year which are charged on that person in respect of that hereditament shall be payable by instalments accordingly.]

<sup>F39</sup>(1A) Paragraph (1) shall not extend to a hereditament (not being a hereditament which is a dwelling-house or, though not a dwelling-house, is used partly for the purposes of a private dwelling) whose rateable value is less than such sum or is more than such other sum as the Department may by order subject to affirmative resolution prescribe.]

(2) Subject to paragraph 6 of Schedule 9, where pursuant to paragraph (1) the rates charged on any person in respect of any hereditament are payable by instalments, those rates shall be recoverable only to the extent of each respectively of those instalments as and when it falls due.

**F38** Subsection (1) sets out the subsection. as amended by [1981 NI 13](#) art.6

**F39** [1981 NI 13](#)

VALID FROM 01/12/2006

### Agreements for deferred payment of rates on dwellings

[<sup>F40</sup>**29A.**—(1) Regulations may provide that the Department may enter into an agreement with the occupier of a hereditament for the payment of rates in respect of the capital value of the hereditament to be deferred, if—

- (a) he is the owner of the hereditament;
- (b) he has attained pensionable age or he is the surviving spouse or surviving civil partner of a person who has made an agreement in respect of the same hereditament;
- (c) the hereditament either is a dwelling-house or, though not a dwelling-house, is used partly for the purposes of a private dwelling; and
- (d) prescribed conditions are satisfied.

(2) Regulations may contain such provision as the Department considers necessary or expedient for the purposes of this Article, including provision—

- (a) as to the terms of the agreement (including terms as to repayment, the payment of interest and other charges and as to the termination of the agreement and extending the period of the agreement);
- (b) for the amount outstanding under the agreement to be deemed to be a statutory charge (within the meaning of the Land Registration Act (Northern Ireland) 1970);
- (c) for an agreement to transfer the amount outstanding under an agreement made in respect of the same hereditament by the deceased spouse or civil partner of the occupier;
- (d) for the meaning of “owner” and “pensionable age” in paragraph (1).]

**F40** [Art. 29A](#) inserted (1.12.2006) by [Rates \(Amendment\) \(Northern Ireland\) Order 2006 \(S.I. 2006/2954 \(N.I. 18\)\)](#), arts. 1(3), **10(1)**; [S.R. 2006/464](#), **art. 2(2)**, Sch. 2

**Status:** Point in time view as at 23/11/2006. This version of this Order contains provisions that are not valid for this point in time.

**Changes to legislation:** Rates (Northern Ireland) Order 1977 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Discount on rates on dwellings

**30.**—(1) An allowance shall be granted in accordance with paragraph (2) to any person entitled to serve a notice under Article 29(1) in respect of a hereditament which either is a dwelling-house, or, though not a dwelling-house, is used partly for the purposes of a private dwelling whether or not he has in fact served such a notice, who pays the net amount due on account of a rate in respect of that hereditament<sup>[F41]</sup> in a single sum before such date] as the Department may notify to him.

(2) The allowance shall be by way of a discount of<sup>[F41]</sup> 4 %] on—

- (a) in the case of a dwelling-house, the amount payable on account of the rate; or
- (b) in the case of a hereditament which, though not a dwelling-house, is used partly for the purposes of a private dwelling, so much of the amount payable on account of the rate as is computed by reference to the domestic element of the rateable value of the hereditament.

<sup>[F41]</sup>(2A) The Department may by order direct that for the percentage mentioned in paragraph (2) there shall be substituted such other percentage as may be specified in the order.

(2B) An order under paragraph (2A) shall be subject to affirmative resolution and shall have effect from the beginning of the year after that in which it is made.]

(3) If an allowance under this Article is made in respect of a hereditament in respect of which a notice under Article 29(1) is in force, that notice shall thereupon cease to be in force and, notwithstanding anything in Article 29(1), rates in respect of that hereditament shall cease to be payable in accordance with that Article, without prejudice, however, to the right to serve a fresh notice under Article 29(1) in accordance with paragraph 1 of Schedule 9.

(4) In this Article “the domestic element of the rateable value of the hereditament” means so much of the rateable value as consists of or is derived from the amount of the net annual value apportioned in the valuation list to the use of the hereditament for the purposes of a private dwelling.

**F41** 1983 NI 7

VALID FROM 01/12/2006

### <sup>[F42]</sup>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.]

**F42** Art. 30A inserted (1.12.2006) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), **14**; S.R. 2006/464, **art. 2(2)**, Sch. 2

**Modifications etc. (not altering text)**

**C3** Art. 30A(5) modified (1.4.2007) by Rates (Maximum Capital Value) Regulations (Northern Ireland) 2007 (S.R. 2007/184), **reg. 4(a)**

VALID FROM 01/12/2006

**[<sup>F43</sup>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;

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(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).]

**F43** Art. 30B inserted (1.12.2006) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), **15(1)**; S.R. 2006/464, **art. 2(2)**, Sch. 2

VALID FROM 14/12/2009

[<sup>F44</sup>**Zero-carbon or low-carbon homes**

**30C.**—(1) Regulations may provide that, if prescribed conditions are satisfied, the first occupier of a newly-constructed dwelling-house which is—

- (a) a low-carbon home; or
- (b) a zero-carbon home,

shall not be chargeable in respect of it to rates in respect of a prescribed period.

(2) In the case of a low-carbon home the prescribed period for the purposes of paragraph (1) shall not—

- (a) exceed two years; or
- (b) begin after 31st March 2013.

(3) In the case of a zero-carbon home the prescribed period for the purposes of paragraph (1) shall not—

- (a) exceed five years; or
- (b) begin after 31st March 2016.

(4) The Department may by order made subject to affirmative resolution—

- (a) substitute a later date for the dates mentioned in paragraphs (2)(b) and (3)(b);
- (b) make transitional provision, or provide savings, in connection with the effect of paragraphs (2) and (3).

(5) In this Article the following expressions shall have such meaning as may be prescribed—

- “first occupier”,
- “hereditament in the private rented sector”,
- “low-carbon home”,
- “newly-constructed”, and
- “zero-carbon home”.

(6) Regulations for the purposes of paragraph (5) may define “low-carbon home” and “zero-carbon home” by reference to specified aspects of the energy efficiency of a building; and for this purpose “energy efficiency” includes—

- (a) consumption of energy;
- (b) conservation of energy; and
- (c) generation of energy.



- (7) Regulations for the purposes of paragraph (5) defining “low-carbon home” and “zero-carbon home” may include requirements which may be satisfied in relation to a dwelling-house either—
- (a) by features of the building which, or part of which, constitutes the dwelling-house; or
  - (b) by other installations or utilities.
- (8) Regulations may—
- (a) make provision about the method of claiming relief under this Article (including documents or information to be provided);
  - (b) provide for relief to be wholly or partly withdrawn in prescribed circumstances.
- (9) Regulations made by virtue of paragraph (8)(a) may, in particular, make provision about the evidence to be provided to show that the definition of “low-carbon home” or “zero-carbon home” is satisfied.
- (10) Regulations made by virtue of paragraph (9) may, in particular—
- (a) refer to a scheme or process established by or for the purposes of a statutory provision about building;
  - (b) establish or provide for the establishment of a scheme or process of certification;
  - (c) specify, or provide for the approval of, one or more schemes or processes for certifying energy efficiency;
  - (d) provide for the charging of fees of a reasonable amount in respect of services provided as part of a scheme or process of certification.
- (11) Regulations may provide that—
- (a) 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;
  - (b) the Department or any person aggrieved by a decision of the Valuation Tribunal on an appeal by virtue of sub-paragraph (a) as being erroneous on a point of law may require the Valuation Tribunal to state and sign a case for the Court of Appeal.
- (12) This Article shall not apply to—
- (a) a dwelling-house which is a hereditament in the social sector (within the meaning of Article 23A);
  - (b) a dwelling-house which is a hereditament in the private rented sector; and
  - (c) such other dwelling-houses as may be prescribed.
- (13) Regulations for the purposes of paragraph (1) may prescribe a period beginning before the making of the regulations but not earlier than the beginning of the year in which the regulations are made.
- (14) Regulations may make such provision as the Department considers necessary or expedient for the purposes of this Article.]

**F44** Art. 30C inserted (14.12.2009) by Rates (Amendment) Act (Northern Ireland) 2009 (c. 8), ss. 2, 19; S.R. 2009/375, art. 2(2), Sch. 2

**Modifications etc. (not altering text)**

**C4** Art. 30C excluded (1.4.2010) by Rate Relief (Low-Carbon Homes Scheme) Regulations (Northern Ireland) 2010 (S.R. 2010/66), reg. 3

VALID FROM 14/12/2009

**[<sup>F45</sup>Energy efficiency**

**30D.**—(1) Regulations may provide that, in prescribed cases, the amount which, apart from this Article, would be payable in respect of a prescribed period on account of a rate in respect of a dwelling-house to which this Article applies shall be reduced by a prescribed sum.

(2) This Article applies to a dwelling-house if—

- (a) prescribed measures to improve its energy efficiency have been taken to a prescribed standard; and
- (b) prescribed conditions are satisfied.

(3) In this Article—

“dwelling-house” includes a hereditament which is used partly for the purposes of a private dwelling;

“energy efficiency” has the same meaning as in Article 30C(6);

“rate in respect of a dwelling-house”, in relation to a hereditament which is used partly for the purposes of a private dwelling, means a rate in respect of its rateable capital value.

(4) The prescribed period for the purposes of paragraph (1) shall not—

- (a) except in prescribed cases, exceed one year; or
- (b) begin after 31st March 2015.

(5) The Department may by order made subject to affirmative resolution—

- (a) substitute a later date for the date mentioned in paragraph (4)(b);
- (b) make transitional provision, or provide savings, in connection with the effect of paragraph (4).

(6) Regulations may provide that a reduction shall not be made under this Article unless a person has consented to the inspection of the dwelling-house in question and regulations may make provision for such inspections.

(7) Regulations may make provision—

- (a) about the method of claiming a reduction under this Article (including documents or information to be provided);
- (b) about the method of making a reduction under this Article.

(8) Regulations may provide for prescribed functions under the regulations to be exercisable by such persons as the Department may determine.

(9) Regulations may provide that—

- (a) 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;

- (b) the Department or any person aggrieved by a decision of the Valuation Tribunal on an appeal by virtue of sub-paragraph (a) as being erroneous on a point of law may require the Valuation Tribunal to state and sign a case for the Court of Appeal.

(10) Regulations may provide that this Article shall not apply to—

- (a) a dwelling-house which is a hereditament in the social sector (within the meaning of Article 23A);

(b) a dwelling-house which is a hereditament in the private rented sector (within the meaning of Article 30C); and

(c) such other dwelling-houses as may be prescribed.

(11) Regulations for the purposes of paragraph (1) may prescribe a period beginning before the making of the regulations but not earlier than the beginning of the year in which the regulations are made.

(12) Regulations may make such provision as the Department considers necessary or expedient for the purposes of this Article.]

**F45** Art. 30D inserted (14.12.2009) by Rates (Amendment) Act (Northern Ireland) 2009 (c. 8), ss. 3, 19; S.R. 2009/375, art. 2(2), Sch. 2

**Modifications etc. (not altering text)**

**C5** Art. 30D excluded (1.4.2010) by Rate Relief (Energy Efficiency Homes Scheme) Regulations (Northern Ireland) 2010 (S.R. 2010/67), reg. 3

*Special reliefs in respect of certain other hereditaments*

**Reduction of rates on certain hereditaments used for recreation**

<sup>F46</sup>**31.**—(1) Subject to paragraph (5) and Article 44(2A)( b)(i), the amount which, apart from this Article, would be payable on account of a rate in respect of a hereditament to which this Article applies shall for each year be reduced in accordance with paragraphs (3) and (4).

(2) This Article applies to a hereditament—

(a) which, or any part of which, is used solely for the purposes of a prescribed recreation; and

(b) which is occupied for the purposes of a club, society or other organisation that—

(i) is not established or conducted for profit, and

(ii) does not employ any person to engage in any recreation for reward, except for the instruction of other persons who are themselves engaging or preparing to engage in it otherwise than for reward; and

(c) which is not distinguished in the valuation list as exempt from rates as being a hereditament of a description mentioned in Article 41(2)( e)<sup>F47</sup> . . . . . (recreational charities) [<sup>F48</sup>or by virtue of Article 12(2), (3) or (4) of the Rates (Capital Values, etc.) (Northern Ireland) Order 2006].

(3) Where the hereditament is shown in the valuation list as used solely for the purposes of a prescribed recreation, the reduction shall be effected by reducing the normal rate by [<sup>F49</sup>80] per cent.

(4) Where the hereditament is shown in the valuation list as having part of its net annual value apportioned to a part or parts of the hereditament used solely for the purposes of a prescribed recreation, the reduction shall be effected by computing separately—

(a) so much of the amount payable as is referable to the part of the net annual value shown in the valuation list as so apportioned, and

(b) so much of that amount as is referable to the remainder of the net annual value,

and by reducing the normal rate, for the purpose of the computation mentioned in sub-paragraph ( a), by [<sup>F50</sup>80] per cent.

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(5) Where a hereditament is one to which this Article applies during part only of a year, the reduction shall be made for that part of the year only; and if the reduction, or any adjustment in it, affects the amount levied on account of a rate in respect of the hereditament for that 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.

(6) In this Article—

“the normal rate” for any year in respect of any hereditament means the amount which, apart from this Article, would be the amount in the pound of the rate to be levied for that year in respect of that hereditament;

“prescribed recreation” means a recreation, whether conducted indoors or outdoors, which in the opinion of the Department demands an appreciable degree of physical effort and which is of a kind specified by the Department, after consultation with the Sports Council for Northern Ireland and with any association which appears to the Department to be representative of district councils, by an order made subject to affirmative resolution;

“use” in relation to a hereditament or any part of it means use by members of the club, society or other organisation for the purposes of which the hereditament is occupied or by other persons who under the rules of that club, society or organisation are permitted to use the hereditament or that part;

and for the purposes of this Article and Article 44(2A) an area provided as a parking place for vehicles of persons engaging in a prescribed recreation, and any part of a hereditament constructed or adapted for use by such persons (or by persons who have engaged or intend to engage in the recreation) as a bathroom or lavatory or for use wholly or mainly for the storage of their clothing or of equipment used for purposes of the recreation, shall be treated as used solely for the purposes of that recreation (notwithstanding that it is also used by other persons or that at particular times it is used by persons none of whom are engaging in such a recreation).]

**F46** 1979 NI 4

**F47** Words in art. 31(2)(c) repealed (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), 12(7)(a)(i), 16, **Sch. 4**; S.R. 2006/146, **art. 2**

**F48** Words in art. 31(2)(c) inserted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **12(7)(a)(ii)**; S.R. 2006/146, **art. 2**

**F49** Word in art. 31(3) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **9(a)**; S.R. 2006/146, **art. 2**

**F50** Word in art. 31(4) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **9(b)**; S.R. 2006/146, **art. 2**

### Rate rebates for certain hereditaments with special facilities for the disabled

**31A<sup>F51</sup>**.—(1) Subject to paragraphs (5), (7), (8) and (11), the Department shall, in accordance with the provisions of this Article, grant to the person mentioned in paragraph (4) a rebate from the rates chargeable in respect of a hereditament to which this Article applies.

(2) This Article applies to—

- (a) a hereditament in which there is a facility which is required for meeting the needs of a disabled person who resides in the hereditament, including a facility of any of the following descriptions, that is to say,—
  - (i) a room, other than a bathroom or lavatory, which is wholly or mainly used (whether for providing therapy or for other purposes) by such a disabled person;
  - (ii) an additional bathroom or lavatory;

- (iii) a heating installation for providing heating in two or more rooms;
- (b) a hereditament in which there is sufficient floor space to permit the use of a wheel chair used by and required for meeting the needs of a disabled person who resides in the hereditament; and
- (c) a hereditament of either of the following descriptions which provides accommodation for a vehicle used by and required for meeting the needs of a disabled person, that is to say,—
  - (i) a hereditament where the disabled person resides which includes a garage or other building or land used otherwise than temporarily for such accommodation;
  - (ii) a hereditament where the disabled person does not reside which consists of or includes such a garage, building or land.
- (3) In paragraph (2)—
  - (a) references to anything being required for meeting the needs of a disabled person are references to its being essential or of major importance to his well-being by reason of the nature and extent of his disability; and
  - (b) references to a disabled person who resides in a hereditament include references to a disabled person who is usually resident there.
- (4) The person entitled to a rebate under this Article (a “rebate”) is—
  - (a) the disabled person if he is the occupier of the hereditament or makes payments by way of rent in respect of all or any of it; or
  - (b) any person who is a member of the same household as the disabled person and either is the occupier of the hereditament or makes such payments as aforesaid.
- (5) No rebate shall be granted except on an application made to the Department by the person entitled to the rebate; and any such application shall contain such information as the Department may reasonably require.
- (6) Subject to paragraph (7), a rebate shall be granted for such period, being a year or part of a year, as the Department may determine (a “rebate period”).
- (7) Where the hereditament qualifies for rebate for part only of a rebate period the rebate shall be proportionately reduced and if too large an amount has been paid or allowed by way of rebate the excess shall be recoverable summarily by the Department as a debt.
- (8) No rebate shall be granted—
  - (a) for any period before 1st April 1979; or
  - (b) except in such circumstances and to such extent as the Department may determine, for any period before the beginning of the year in which the application is made.
- (9) A rebate may be granted either by making a payment of the amount of the rebate or, where the person entitled is the occupier of the hereditament, by reducing the rates payable by him.
- (10) Subject to paragraph (11), 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—
  - (a) where the hereditament is one to which this Article applies by virtue of paragraph (2)( a), ( b) or ( c)(i), to so much of the net annual value of the hereditament as is certified by the district valuer as apportioned by him to the facility, floor space or accommodation in question;
  - (b) where the hereditament is one to which this Article applies by virtue of paragraph (2)( c) (ii) and is certified by the district valuer to provide accommodation solely for a vehicle used by and required for meeting the needs of a disabled person, to the net annual value of the hereditament;

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- (c) where the hereditament is one to which this Article applies by virtue of paragraph (2)( c) (ii) and is not certified as mentioned in sub-paragraph ( b), to so much of the net annual value of the hereditament as is certified by the district valuer as apportioned by him to the part of the garage or other building or land which provides accommodation solely for such a vehicle as is mentioned in sub-paragraph ( b).

(11) Where the district valuer certifies that no part of the net annual value of the hereditament is attributable to any facility, floor space or accommodation such as is mentioned in paragraph (2), no rebate shall be granted.

(12) An applicant for a rebate, who is aggrieved by any certificate issued by the district valuer under paragraph (10) or (11) may appeal to the Commissioner, and the provisions of Articles 51 to 54 shall, with the appropriate modifications, apply in relation to an appeal under this paragraph.

(13) Where the person entitled to a rebate under this Article is also entitled to a rebate under<sup>[F52]</sup> the housing benefit scheme] in respect of the same hereditament and period, that scheme 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.]

**F51** 1979 NI 4

**F52** 1986 NI 18

VALID FROM 01/04/2007

<sup>[F53]</sup> **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).]

**F53** Art. 31AA inserted (1.4.2007) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 24; S.R. 2006/464, art. 2(4)

*Status: Point in time view as at 23/11/2006. This version of this Order contains provisions that are not valid for this point in time.*

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### **[F54] Rate rebates for certain hereditaments used by institutions for the disabled**

**31B.**—(1) Subject to the provisions of this Article, the Department shall grant to the person mentioned in paragraph (4) a rebate from the rates chargeable in respect of a hereditament to which this Article applies.

(2) This Article applies to any hereditament which is used wholly or mainly for a qualifying purpose; and a hereditament is used for a qualifying purpose if it is used—

- (a) for one or more of the purposes specified in paragraph (3); or
- (b) for one or more of those purposes and for purposes ancillary thereto.

(3) The said purposes are—

- (a) the provision of residential accommodation for the care of persons suffering from illness or the after-care of persons who have been suffering from illness;
- (b) the provision of facilities for training or keeping suitably occupied persons suffering from illness or persons who have been suffering from illness;
- (c) the provision of such accommodation or facilities as are mentioned in sub-paragraph (a) or (b) for disabled persons not falling within that sub-paragraph;
- (d) the provision of personal social services for disabled persons;
- (e) the provision of facilities under section 15 of the Disabled Persons (Employment) Act (Northern Ireland) 1945.

(4) The person entitled to a rebate under this Article is the occupier of the hereditament.

(5) No rebate shall be granted except on an application made to the Department by the person entitled to the rebate; and any such application shall contain such information as the Department may reasonably require.

(6) Subject to paragraph (7), a rebate shall be granted for such period, being a year or part of a year, as the Department may determine (a “rebate period”).

(7) Where the hereditament qualifies for rebate for part only of a rebate period the rebate shall be proportionately reduced and if too large an amount has been paid or allowed by way of rebate the excess shall be recoverable summarily by the Department as a debt.

(8) No rebate shall be granted—

- (a) for any period before the coming into operation of this Article; or
- (b) except in such circumstances and to such extent as the Department may determine, for any period before the beginning of the year in which the application is made.

(9) A rebate may be granted either by making a payment of the amount of the rebate or by reducing the rates payable by the occupier.

(10) The amount of a rebate shall be—

- (a) in the case of a hereditament used wholly for a qualifying purpose, so much of the rates chargeable in respect of the hereditament for, or properly apportionable to, the rebate period;
- (b) in the case of a hereditament used mainly for a qualifying purpose, so much of the rates chargeable in respect of the relevant part of the hereditament for, or properly apportionable to, the rebate period as is referable to so much of the net annual value of the hereditament as is certified by the district valuer as apportioned by him to the part or parts of it used for that purpose.

(11) An applicant for a rebate, who is aggrieved by any certificate issued by the district valuer under paragraph (10) may appeal to the Commissioner, and the provisions of Articles 51 to 54 shall, with the appropriate modifications, apply in relation to an appeal under this paragraph.



(12) In this Article—

“building” includes any part of a building;

“care” without prejudice to paragraph (2)(b), does not include the provision of medical, surgical or dental treatment;

“illness” has the same meaning as in the Health and Personal Social Services (Northern Ireland) Order 1972.]

**F54** 1994 NI 11

### [<sup>F55</sup>General stores etc., in rural settlements

**31C.** Schedule 9A (which provides for relief from rates for certain hereditaments in rural settlements) shall have effect.]

**F55** 1998 NI 22

## *Recovery of rates*

### **Proceedings for recovery of rates**

**32.**—(1) Without prejudice to Article 9(2) or to any right of deduction or set-off, any sum due by a person to the Department on account of a rate leviable on him shall be recoverable, as a debt due to the Department, summarily or by action in the county court or the High Court.

(2) The jurisdiction conferred on a court of summary jurisdiction or a county court by paragraph (1) may be exercised notwithstanding anything to the contrary in any transferred provision which imposes limitations on the jurisdiction of such a court by reference to an amount or balance claimed or to the amount of an account or the value of property.

(3) Notwithstanding any other transferred provision, proceedings under this Article for the recovery from any person of a sum due by him on account of a rate in respect of any hereditament may be heard or determined by a court of summary jurisdiction, or the county court, having jurisdiction in the whole or any part of the petty sessions district, or the division, in which that person resides or in which the hereditament, or any part of it, is situated.

(4) No proceedings for the recovery of any sum due to the Department on account of a rate shall be instituted except after the expiration of at least seven days from the date of service of the demand note on which the rate is levied; and an averment in the process that the demand note was served at least seven days prior to such proceedings being instituted shall be admissible in the proceedings as sufficient evidence of that fact.

(5) A person authorised in writing by the Department to exercise functions under this paragraph may authorise the institution of and, although not a practising solicitor, institute, appear in and conduct on behalf of the Department proceedings in any court of summary jurisdiction for the recovery of any sum due to the Department on account of a rate; and any such proceedings which have been begun by one such person may be continued by another such person.

(6) All or any of the sums due on account of rates from any one person may, whether or not they are due in respect of the same hereditament, be included in the same process, order or other document authorised or required by law to be issued, and every such document as aforesaid shall, as respects each such sum be construed as a separate document, and its invalidity as respects any one such sum shall not affect its validity as respects any other such sum.

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(7) In any proceedings for the recovery of a sum due to the Department on account of a rate no question shall be raised in respect of any matter in respect of which relief might have been obtained—

- (a) under Article 11 by means of an appeal against the rate; or
- (b) under Article 13(3) by means of an appeal as to the appropriate date for the taking effect of an alteration in the valuation list; or
- (c) under Article 31(4) by means of an appeal on a question arising under that Article; or
- (d) under Part III by means of—
  - (i) an application for revision of the valuation list; or
  - (ii) an appeal against the making or refusal of an alteration in the valuation list, or an application for the review of such an alteration.

(8) For the purposes of [F56 Article 4 of the Limitation (Northern Ireland) Order 1989] and [F57 Article 63(1) of the Magistrates' Courts (Northern Ireland) Order 1981] (debt, etc., proceedings not to be commenced after six years from date when cause of action accrued or arose), the cause of action for the recovery of a sum due on account of a rate of any year shall be deemed to have accrued or arisen on 1st April in that year, and for the purposes of this Order the said section 72(1) shall bind the Crown.

(9) In this Article “process” includes a process under [F57 Part VI of the Magistrates' Courts (Northern Ireland) Order 1981], a civil bill and a writ.

**F56** 1989 NI 11

**F57** 1981 NI 26

### Limitation of liability of certain owners

**33.—**(1) Where the Department claims to recover from any person as being the owner of a hereditament any sum due on account of a rate levied on him in respect of that hereditament, and that person proves that he—

- (a) is receiving the rent of the hereditament merely as agent or trustee for some other person; and
- (b) does not hold, and since the date on which the rate became due and payable has not held or received, on behalf of that other person sufficient money to discharge the whole demand of the Department;

his liability shall be limited to the total amount of the money which he holds or has held or received as aforesaid, unless a notice has been served on him under Article 26(2)[F58 or (2A)] and he has not complied with it.

(2) Where a person to whom paragraph (1) applies has paid out of money held or received by him on behalf of the person for whom he acts as agent or trustee—

- (a) any sum to a district council in respect of expenses claimed by the council to be recoverable from him by it under any provision of the Public Health Acts (Northern Ireland) 1878 to 1967, or
- (b) any sum necessary to defray the cost of abating, in accordance with a notice served by a district council, a nuisance which is liable to be dealt with summarily in manner provided by those Acts and of executing such works and doing such things as may be necessary for that purpose,

that sum shall be deemed for the purposes of paragraph (1) not to have been held or received by him.

(3) Without prejudice to any other provision of this Part, where the Department is, or would be, debarred by paragraph (1) from recovering the whole of any sum such as is there mentioned from

an agent or trustee, the Department may recover the whole or any unpaid balance of that sum from the person on whose behalf the agent or trustee receives the rent as if it were arrears of rate payable by him.

**F58** 2004 NI 4

### **[<sup>F59</sup>Transitional rate relief**

**33A.**—(1) Where, in a new valuation list coming into force on 1st April in any year, any net annual value to be ascribed in that list to a specified hereditament is a different value from that ascribed to the hereditament in the list in force immediately before the coming into force of the new valuation list, the Department may, by order subject to negative resolution,—

- (a) provide for such provisions of this Order as may be specified in the order not to apply; and
- (b) provide—
  - (i) for the amount of the sum chargeable in respect of rates due in respect of the hereditament to be such as is determined in accordance with rules specified in the order; or
  - (ii) for any such difference in the net annual value to come into force in such proportion and over such period as may be specified in the order.

(2) In this Article “specified hereditament” means a hereditament of such a class as may be specified in the order under paragraph (1).]

**F59** 1996 NI 25

### **[<sup>F60</sup>Hardship relief**

**33B.**—(1) If regulations so provide, the Department may reduce or [<sup>F61</sup>repay] in accordance with the regulations any relevant amount <sup>F62</sup>. . . where it appears to the Department that—

- (a) there are exceptional circumstances; and
- (b) without such a reduction or [<sup>F63</sup>repayment a] person would suffer hardship.

(2) In [<sup>F64</sup> this Article “reduce” includes remit.] “relevant amount” means such amount payable [<sup>F65</sup>or paid]in respect of rates in respect of a hereditament to which this Article applies as may be prescribed [<sup>F66</sup> and “repay” means repay in whole or in part].

- (3) This Article applies to a hereditament which—
  - (a) is a specified hereditament within the meaning of Article 39A(3) (hereditaments other than dwelling-houses, etc.); and
  - (b) does not fall within a prescribed class.
- (4) Regulations may—
  - (a) provide for a reduction or [<sup>F67</sup>repayment] to be of such amount as the Department may determine, having regard to any prescribed matters; and
  - (b) require a person to satisfy prescribed conditions to be eligible for a reduction or [<sup>F68</sup>repayment][<sup>F69</sup>; 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].]

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- F60** 2004 NI 4
- F61** Word in art. 33B(1) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **10(2)(a)**; S.R. 2006/146, **art. 2**
- F62** Words in art. 33B(1) repealed (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **10(2)(b)**, 16, **Sch. 4**; S.R. 2006/146, **art. 2**
- F63** Words in art. 33B(1)(b) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **10(2)(c)**; S.R. 2006/146, **art. 2**
- F64** Words in art. 33B(2) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **10(3)(a)**; S.R. 2006/146, **art. 2**
- F65** Words in art. 33B(2) inserted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **10(3)(b)**; S.R. 2006/146, **art. 2**
- F66** Words in art. 33B(2) added (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **10(3)(c)**; S.R. 2006/146, **art. 2**
- F67** Word in art. 33B(4)(a) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **10(4)(a)**; S.R. 2006/146, **art. 2**
- F68** Word in art. 33B(4)(b) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **10(4)(b)**; S.R. 2006/146, **art. 2**
- F69** Art. 33B(4)(c) and preceding words added (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **10(4)(c)**; S.R. 2006/146, **art. 2**

### *Financial provisions*

#### **Payments to district councils on account of district rates**

**34.**—(1) The Department shall, in respect of each year, pay to each district council in accordance with regulations a sum equal to the product of [F70 a] district rate made by the council for that year.

(2) The sums payable under this Article shall be charged on and issued out of the Consolidated Fund, and for the purpose of providing for such issues the Department may borrow money.

**F70** 1998 NI 22

#### **Product of rate**

**35.** Regulations may prescribe the manner in which the product of a rate of a specified amount in the pound is to be ascertained for such purposes of this Order or of any other transferred provision, whether passed or made before or after this Order, as may be prescribed.

## PART III VALUATION

### *The Valuation Office*

#### **The Commissioner, district valuers and the Valuation Office**

**36.**—(1) The head of the Department—

- (a) shall appoint an officer of the Department as the Commissioner of Valuation for Northern Ireland (in this Order referred to as “the Commissioner”); and

(b) may appoint such an officer as a deputy to act in the stead of the Commissioner.

(2) For the purposes of this Order, Northern Ireland shall be divided into such valuation districts as the Commissioner may determine, and, in respect of each such district, the Department shall appoint an officer of the Department as the district valuer.

(3) With the approval of the Commissioner any district valuer may act in the stead of any other district valuer.

(4) The Department shall continue to maintain the offices of the Commissioner known as the Valuation Office, and shall appoint such officers to the Valuation Office as the Department considers necessary for the purpose of assisting in the discharge of any functions of the Commissioner and of district valuers.

(5) Without prejudice to the functions conferred on district valuers by this Order, the Commissioner shall supervise the officers appointed under paragraph (4), and district valuers, and may assign to them their functions.

*Para. (6) rep. by 1982 NI 6*

### *[<sup>F71</sup>The Valuation Tribunal*

**F71** [Art. 36A](#) and the preceding cross heading inserted (23.11.2006 for certain purposes, otherwise 1.4.2007) by [Rates \(Amendment\) \(Northern Ireland\) Order 2006 \(S.I. 2006/2954 \(N.I. 18\)\)](#), arts. 1(3), [29\(1\)](#); S.R. 2006/464, [art. 2\(1\)](#), (4), Sch. 1

## **The Valuation Tribunal**

**36A.**—(1) There shall be a tribunal to be known as the Northern Ireland Valuation Tribunal which shall exercise the jurisdiction conferred on it by this Order or any other statutory provision.

(2) In this Order “the Valuation Tribunal” means the Northern Ireland Valuation Tribunal.

(3) Schedule 9B (which makes further provision about the Valuation Tribunal) shall have effect.]

### *Valuations*

## **Hereditaments**

**37.**—(1) Properties of the descriptions specified in Schedule 10 shall, except in so far as they are required by virtue of paragraph (2) not to be treated as hereditaments, be hereditaments for the purposes of this Order.

(2) Subject to the supplementary provisions set out in column 3 of Schedule 11 in relation to any entry numbered in column 1 of that Schedule, the properties specified in column 2 of that Schedule in relation to that entry shall not be treated as hereditaments for the purposes of this Order.

(3) The Department may, by order made subject to affirmative resolution, amend Schedule 11 by—

(a) adding or omitting any entry; or

(b) altering the provisions set out, or the description of any property specified, in relation to any entry.

[<sup>F72</sup>(4) Regulations may provide that in prescribed cases—

(a) anything which would (apart from the regulations) be one hereditament shall be treated as more than one hereditament;

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- (b) anything which would (apart from the regulations) be more than one hereditament shall be treated as one hereditament.]

**F72** 1996 NI 25

### [<sup>F73</sup>Crown property

**37A.**—(1) The provisions of this Order and of any statutory instrument made under it shall apply to the Crown as they apply to other persons.

(2) Accordingly, liability to rates in respect of a hereditament is not affected by the fact that—

- (a) the hereditament is occupied by the Crown or by a person acting on behalf of the Crown or is used for Crown purposes, or
- (b) the Crown or a person acting on behalf of the Crown is the owner of the hereditament<sup>[F74]</sup> or is entitled to possession of it].

(3) In this Article “statutory instrument” has the meaning assigned to it by section 1(d) of the Interpretation Act (Northern Ireland) 1954.]

**F73** 1998 NI 22

**F74** 2004 NI 4

### Valuations

**38.**—(1) The Commissioner and the district valuers shall conduct, in accordance with the provisions of this Order,—

- (a) such general revaluations of hereditaments as are necessary for the preparation of new valuation lists under Article 45; and
- (b) such other valuations as are necessary for the discharge of the functions of the Commissioner or the district valuer under any other provision of this Order.

(2) Subject to any regulations under Article 37(4), to paragraph (3) and to any other statutory provision, every hereditament shall be separately valued.

(3) Notwithstanding anything contained in paragraph (2), the Commissioner, or the district valuer with the approval of the Commissioner, may, if he thinks it proper to do so having regard to the circumstances of the case,—

- (a) value contiguous hereditaments in the occupation of one and the same occupier as a single hereditament, notwithstanding that they are held under different titles;
- (b) where a hereditament comprises two or more parts capable of separate occupation, although in the same occupation, value the several parts as separate hereditaments; and where hereditaments or parts of a hereditament are valued as mentioned in sub-paragraph (a) or (b), they shall be treated as a single hereditament, or, as the case may require, as separate hereditaments, for all the other purposes of this Order.

### Basis of valuation

**39.**—(1) For the purposes of this Order every hereditament shall be valued upon an estimate of its net annual value.

(2) Without prejudice to any other statutory provision, [<sup>F75</sup>but subject to Articles 39A and 39B,] Schedule 12 shall have effect for the purpose of providing for the manner in which the net annual

value of a hereditament is to be, or may be, estimated, and the other provisions of that Schedule shall have effect.

(3) Where any provision of Schedule 12 empowers the Department to make an order modifying any other provision of the Schedule or providing for the method by which the net annual value of any hereditament is to be determined, the order—

- (a) may contain such incidental, supplemental and transitional provisions as the Department considers necessary or expedient, including provisions modifying this Order;
- (b) shall be made only after consultation with any association which appears to the Department to be representative of district councils or, where the order affects only the district of a particular council, after consultation with the district council which appears to the Department to be concerned; and
- (c) shall be subject to affirmative resolution;

and an order providing for the method by which the net annual value of any hereditament is to be determined may provide for determining that value by the application of different methods of valuation to different parts of the hereditament.

F75 1981 NI 13

#### **Time by reference to which, and basis on which, valuations to be made for new valuation list**

<sup>F76</sup>**39A.**—(1) Any net annual value to be ascribed to a specified hereditament in a new valuation list coming into force on 1st April in any year shall be ascertained by reference to such earlier time as the Department may by order subject to negative resolution specify, but on the assumption that at the time specified in the order the hereditament was in the same state and circumstances as at the time when the list comes into force.

(2) Where an order under paragraph (1) operates for any year, any net annual value to be ascribed to an unspecified hereditament in the new valuation list coming into force on 1st April in that year shall, subject to any adjustment under Article 39B, be

- (a) the same value as was ascribed to the hereditament in the old list, that is the valuation list in force immediately before the coming into force of the new valuation list, or
- (b) (if no such value was ascribed) the value which would properly be ascribed to the hereditament if the old list were still in force and were altered in pursuance of an application for revision made on the date of the new valuation list coming into force.

(3) In this Article and Article 39B “specified hereditament” means a hereditament of such a class as may be specified in the order under paragraph (1) and “unspecified hereditament” means a hereditament not of such a class.

(4) This Article does not apply to a hereditament which is occupied by a public utility undertaking.]

F76 1981 NI 13

#### **Adjusted net annual value**

<sup>F77</sup>**39B.**—(1) *In a case where the Department so provides by order subject to negative resolution in relation to a new valuation list to come into force on 1st April in any year, the net annual value to be ascribed in that list to a specified hereditament or to an unspecified hereditament (depending on which the order provides) shall, instead of the annual value arrived at under Articles 39 and 39A, be that value as adjusted by a method prescribed in the order.*

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(2) Any method so prescribed shall be such as in the opinion of the Department will preserve the ratio which it estimates will exist, immediately before the coming into force of the new valuation list, between the net annual values of specified hereditaments in Northern Ireland as a whole and the net annual values of unspecified hereditaments in Northern Ireland as a whole.

(3) Before prescribing a method, the Department shall consult

- (a) any association which appears to the Department to be representative of district councils;
- (b) any district council and any other body of persons, with whom consultation appears to the Department to be desirable.]

F77 1981 NI 13

### [<sup>F78</sup> Rating of electricity licence holders

**39C.**—(1) For the purposes of any valuation list in force on or after the transfer date within the meaning of Article 68 of the Electricity (Northern Ireland) Order 1992, the Department may, by order, either—

- (a) determine the net annual value of the hereditaments occupied by a holder of a licence or an exemption under Part II of that Order of 1992; or
- (b) make provision for the manner in which the net annual value of such hereditaments is to be, or may be, estimated.

(2) An order under paragraph (1) may make provision with respect to the apportionment of the aggregate amount of the net annual value determined or estimated under the order among the districts of district councils.

(3) An order under paragraph (1)—

- (a) may modify or repeal any provision of this Order;
- (b) may contain such incidental, supplementary or consequential provisions as the Department considers necessary or expedient for the purposes of the Order;
- (c) shall be made only after consultation with holders of such licences or exemptions, associations of district councils and district councils as the Department considers appropriate; and
- (d) shall be subject to affirmative resolution,

and an order providing for the method by which the net annual value of any hereditament is to be determined may provide for determining that value by the application of different methods of valuation to different parts of the hereditament.

(4) In relation to any time before Article 8 of that Order of 1992 comes into operation, any requirement imposed by paragraph (3)(c) to consult with holders of licences or exemptions shall be construed as a requirement to consult with Northern Ireland Electricity.]

F78 1992 NI 1

### [<sup>F79</sup> Rating of gas licence holders, etc.

**39D.**—(1) The following powers are exercisable by the Department for the purposes of any valuation list in force on or after the coming into operation of Part II of the Gas (Northern Ireland) Order 1996.

(2) The Department may by order determine what property occupied by an authorised person is to be treated as a hereditament for the purposes of this Order, and an order under this paragraph may—



- (a) determine that two or more separate properties occupied by an authorised person are to be treated for those purposes as a single hereditament; and
  - (b) make provision with respect to the apportionment of the amount of the net annual value of that single hereditament among the districts of district councils.
- (3) The Department may by order determine the net annual value of the hereditaments occupied by an authorised person or make provision for the manner in which the net annual value of such hereditaments is to be, or may be, determined, and an order under this paragraph may—
- (a) make provision with respect to the apportionment of the aggregate amount of the net annual value determined under the order among the districts of district councils;
  - (b) provide for determining the net annual value of any hereditament by the application of different methods of valuation to different parts of the hereditament.
- (4) An order under paragraph (2) or (3)—
- (a) may modify or repeal any provision of this Order;
  - (b) may contain such incidental, supplementary or consequential provisions as the Department considers necessary or expedient for the purposes of the order;
  - (c) shall be made only after consultation with such authorised persons, associations of district councils and district councils as the Department considers appropriate; and
  - (d) shall be subject to affirmative resolution.
- (5) In this Article “authorised person” means the holder of a licence or an exemption under Part II of the Gas (Northern Ireland) Order 1996.]

F79 1996 NI 2

**[<sup>F80</sup>Rating of hereditaments occupied for the purpose of water supply or sewerage services**

- 39E.**—(1) For the purposes of any valuation list the Department may, by order—
- (a) determine what property occupied for the purposes of water supply or sewerage services is to be treated as a single hereditament for the purposes of this Order;
  - (b) determine the net annual value of the hereditament or make provision for the manner in which the net annual value is to be, or may be, determined;
  - (c) make provision with respect to the apportionment of the aggregate amount of the net annual value determined under the order among the districts.
- (2) An order under paragraph (1)—
- (a) may modify or repeal any provision of this Order;
  - (b) may contain such incidental, supplementary or consequential provisions as the Department considers necessary or expedient for the purposes of the order;
  - (c) shall be made only after consultations with such associations of district councils and district councils as the Department considers appropriate; and
  - (d) shall be subject to affirmative resolution;

and an order providing for determining the net annual value of any hereditament may provide for determining that value by the application of different methods of valuation to different parts of the hereditament.]

F80 1996 NI 25

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## *Valuation lists*

### **General provisions as to valuation lists**

**40.**—(1) The Commissioner shall maintain a list of hereditaments (in this Order referred to as a “valuation list”) prepared, and from time to time altered, by him in accordance with this Part.

(2) Without prejudice to the provisions of this Part and subject to any other statutory provision, the following particulars shall be entered in a valuation list:—

- (a) the net annual value of every hereditament;
- (b) such other particulars as may be prescribed with respect to every hereditament; and
- (c) the total of net annual values of all hereditaments in each district.

(3) A valuation list may be maintained by recording the particulars in question in such manner as the Department directs.

(4) Subject to any other statutory provision, where a hereditament is situated partly in one district and partly in another or others, the Commissioner may treat the hereditament in a valuation list as if it were wholly situated in either or any of those districts or may apportion the net annual value of the hereditament between the several districts.

(5) Subject to any alteration duly made under this Part, every valuation list shall remain in force until it is superseded by a new valuation list.

(6) No alteration shall be made in a valuation list except by the Commissioner in accordance with the provisions of this Order or to give effect to an order of a court of competent jurisdiction.

(7) Subject to paragraph (8), the valuation list in accordance with which, under Article 6(3)(b), any rate falls or fell to be made, shall be conclusive evidence for the purposes of the making and levying of that rate of the values of the several hereditaments included in the list, and, where any such values are apportioned in the list between different parts or uses of the hereditament, of the respective apportioned values.

(8) Without prejudice to Article 6(3)(b)(i), as respects any period during which, under this Order, an alteration in the valuation list referred to in paragraph (7) has or is deemed to have had effect, the reference in paragraph (7) to that list shall be construed as a reference to that list as so altered.

### **Distinguishment in valuation list of hereditaments used for public, charitable or certain other purposes**

**41.**—<sup>F81</sup>(1) Subject to the provisions of this Article, where the Commissioner or the district valuer is satisfied that a hereditament is a hereditament of a description mentioned in paragraph (2), he shall distinguish the hereditament, or cause it to be distinguished, in the valuation list as exempt from rates in accordance with paragraph (3).

(2) The hereditaments referred to in paragraph (1) are—

- (a) any hereditament which is altogether of a public nature and is occupied and used for purposes of the public service;
- (b) any hereditament which consists of either or both of the following—
  - (i) a church, chapel or similar building occupied by a religious body and used for purposes of public religious worship;
  - (ii) a church hall, chapel hall or similar building occupied by a religious body and used for purposes connected with that body or for purposes of any charity;

together, in either case, with buildings ancillary thereto;

- (c) any hereditament, other than a hereditament to which sub-paragraph (b) applies, which—

- (i) is occupied by a charity; and
- (ii) is used wholly or mainly for charitable purposes (whether of that charity or of that and other charities);
- (d) any hereditament, other than a hereditament to which sub-paragraph ( b ) applies, which is occupied by a body—
  - (i) which is not established or conducted for profit; and
  - (ii) whose main objects are charitable or are concerned with science, literature or the fine arts;where the hereditament is used wholly or mainly for the purposes of those main objects;
- (e) any hereditament which is used wholly or mainly for purposes which are declared to be charitable by the Recreational Charities Act (Northern Ireland) 1958 ;
- (f) <sup>F82</sup> .....

*Sub-para. (g) rep. by 1994 NI 11*

- (3) The hereditament shall be distinguished as exempt—
  - (a) as to one-half of the extent (if any) to which it is used for such of the purposes mentioned in sub-paragraph ( a ), ( b)(i) or (ii), ( c ), ( d),<sup>F83</sup> or (e)] of paragraph (2) as are domestic purposes; and
  - (b) as to the whole of the extent (if any) to which it is used for such of those purposes as are not domestic purposes;

and, where the hereditament is used otherwise than either wholly for the purposes mentioned in sub-paragraph ( a ) or wholly for the purposes mentioned in sub-paragraph ( b ), the net annual value of the hereditament shall be apportioned by the Commissioner or the district valuer between the use of the hereditament—

- (i) for the purposes mentioned in sub-paragraph (a) (if any);
- (ii) for the purposes mentioned in sub-paragraph (b) (if any);
- (ii) for other purposes (if any);

and the apportionment shall be shown in the valuation list.

(4) Subject to paragraph (5), any use (whether by way of letting or otherwise) for profit shall not be treated as a use for the purposes mentioned in sub-paragraph ( a ), ( b)(i) or (ii), ( c ), ( d),<sup>F84</sup> or (e)] of paragraph (2), unless it directly facilitates the carrying out of those purposes.

(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 to the extent that it is used for the sale of goods donated to a charity, so long as the proceeds of sale (after any deduction of expenses) are applied for the purposes of a charity.

- (6) This Article does not apply to—
  - (a) a hereditament which is occupied for the purposes of a public utility undertaking; or
  - (b) a hereditament which—
    - (i) is occupied by a body specified in Schedule 13; or
    - (ii) if hereditaments of any description are included in that Schedule, is a hereditament of that description.

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

- (a) including hereditaments of any description;
- (b) adding or omitting any body or any description of hereditaments;

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(c) altering the description of any body or hereditament.

(8) A hereditament, or a distinct part of a hereditament, an interest in which belongs to, or to trustees for, a religious body and—

(a) in which (in right of that interest)—

(i) the persons from time to time holding any full-time office as clergyman or minister of any religious denomination, or

(ii) any particular person holding such an office,

have or has a residence from which to perform the duties of the office; or

(b) in which (in right of that interest) accommodation is being held available to provide such a residence for such a person as is mentioned in sub-paragraph ( a);

shall be treated for the purposes of this Article as occupied by a charity and used wholly for charitable purposes which are also domestic purposes, whether or not it would be so treated apart from this provision.

(9) In this Article—

any reference to a body includes a reference to persons administering a trust; and any reference to a hereditament which is occupied by a body includes a reference to a hereditament which is occupied for the purposes of a body by trustees for the body or by a person charged with the administration of, or otherwise acting on behalf of the body;

“charity” means a body established for charitable purposes only;

“domestic purposes” means the purposes of providing living accommodation for one or more than one person who is a member or employee of a body by or on behalf of which the hereditament is occupied;

“employee” means a person employed under a contract of service;

*Definition rep. by 1994 NI 11*

and in paragraph (2)( a)<sup>F85</sup> to (e)] any reference to a hereditament of a description there mentioned includes a reference to a hereditament a distinct part of which is of that description.

(10) <sup>F86</sup> .....

<b>F81</b>	1980 c.17
<b>F82</b>	Art. 41(2)(f) repealed (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), 12(1), 16, <b>Sch. 4</b> ; S.R. 2006/146, <b>art. 2</b>
<b>F83</b>	Words in art. 41(3)(a) substituted (1.4.2006) by The Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), <b>12(7)(b)(i)</b> ; S.R. 2006/146, <b>art. 2</b>
<b>F84</b>	Words in art. 41(4) substituted (1.4.2006) by The Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), <b>12(7)(b)(ii)</b> ; S.R. 2006/146, <b>art. 2</b>
<b>F85</b>	Words in art. 41(9) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), <b>12(7)(b)(iii)</b> ; S.R. 2006/146, <b>art. 2</b>
<b>F86</b>	Art. 41(10) repealed (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), 16, <b>Sch. 4</b> ; S.R. 2006/146, <b>art. 2</b>
<b>Modifications etc. (not altering text)</b>	
<b>C6</b>	Art. 41(9) applied (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), <b>12(6)</b> ; S.R. 2006/146, <b>art. 2</b>

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

[<sup>F87</sup>**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.]

**F87** Art. 41A inserted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **11(1)**; S.R. 2006/146, **art. 2**

### **Modifications etc. (not altering text)**

**C7** Art. 41A(1) excluded (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **12(2)**; S.R. 2006/146, **art. 2**

Art. 41A(1) excluded (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **12(3)**; S.R. 2006/146, **art. 2**

Art. 41A(1) excluded (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **12(4)**; S.R. 2006/146, **art. 2**

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### Distinguishment in valuation list of certain other hereditaments exempted from rates

42.—(1) There shall be distinguished in the valuation list as wholly exempt from rates—

- (a) any hereditament used or occupied by the<sup>F88</sup> Foyle, Carlingford and Irish Lights Commission] in respect of which that Commission is, under section 12(2) of the Foyle Fisheries Act (Northern Ireland) 1952, exempt from liability for rates;<sup>F89</sup> and
- <sup>F89</sup>(b) any hereditament in respect of which a person is, under section 22(3) of that Act, exempt from liability for rates by reason of his being liable to pay fishery rate in respect of that hereditament under that Act.

<sup>F90</sup>(1A) There shall be distinguished in the valuation list as exempt from rates in accordance with paragraph (1B) any hereditament which—

- (a) is situated, or part of which is situated, in an enterprise zone; and
- (b) is not—
  - (i) a dwelling-house, or a private garage or private storage premises (within the meaning of Article 27);
  - (ii) occupied by a body specified in Schedule 13; or
  - (iii) occupied for the purposes of a public utility undertaking.

(1B) The hereditament shall be distinguished as exempt as follows, namely—

- (a) where it is situated wholly within an enterprise zone, it shall, subject to sub-paragraph (c), be distinguished as wholly exempt;
- (b) where part only of it is situated within an enterprise zone, it shall, subject to sub-paragraph (c), be distinguished as exempt as to the whole of the extent to which it is so situated;
- (c) where, though not a dwelling-house, it is used partly for the purposes of a private dwelling, it shall be distinguished as exempt in accordance with sub-paragraph (a) or (b) only to the extent to which it is used for other purposes.

(1C) Where part only of the hereditament is situated within an enterprise zone, the net annual value of the hereditament shall be apportioned by the Commissioner or the district valuer between the part which is situated within the enterprise zone and the part which is not.

(1D) Where part only of the hereditament is situated within an enterprise zone and the hereditament, though not a dwelling house, is used partly for the purposes of a private dwelling, the net annual value of the hereditament apportioned under paragraph (1C) to the part which is situated within the enterprise zone shall be further apportioned by the Commissioner or the district valuer between the use of that part of the hereditament for the purposes of a private dwelling and its use for other purposes.

(1E) An apportionment under paragraph (1C) or (1D) shall be shown in the valuation list.]

*Para.(2) rep. by 1979 NI 4*

**F88** 2004 NI 4

**F89** 2004 NI 4

**F90** 1983 NI 7

### Distinguishment in valuation list of industrial hereditaments and freight-transport hereditaments

43. Where the Commissioner or the district valuer is satisfied that a hereditament is a hereditament of a description specified in paragraph 1 of Schedule 14, he shall distinguish the

hereditament, or cause it to be distinguished, in the valuation list in accordance with the provisions of that Schedule; and, where by any provision of that Schedule the net annual value of such a hereditament is required to be apportioned, the apportionment shall be shown in the valuation list.

#### **Other matters required or authorised to be entered in valuation list**

**44.**—(1) Where a hereditament is a dwelling-house it shall be shown as such in the valuation list.

(2) Where a hereditament, though not a dwelling-house, is used partly for the purposes of a private dwelling, the net annual value of the hereditament shall be apportioned by the Commissioner or the district valuer between the use of the hereditament—

- (a) for the purposes of a private dwelling; and
- (b) for other purposes,

and the apportionment shall be shown in the valuation list.

<sup>F91</sup>(2A) Where a hereditament is one to which Article 31 applies—

- (a) if the hereditament is used solely for the purposes of a prescribed recreation (as defined by Article 31(6)), it shall be shown in the valuation list as so used;
- (b) if only one or more than one part (but not the whole) of the hereditament is so used, the net annual value of the hereditament shall be apportioned by the Commissioner or the district valuer between the part or parts of the hereditament used solely for the purposes of a prescribed recreation and the remainder of the hereditament, and—
  - (i) if the amount apportioned to the part or parts of the hereditament used solely for the purposes of a prescribed recreation is less than 20 per cent. of the net annual value, the hereditament shall be shown in the valuation list as having no part of its net annual value apportioned to that part or these parts;
  - (ii) if the amount so apportioned is 20 per cent. or more, but less than 50 per cent., of the net annual value, the apportionment shall be shown in the valuation list;
  - (iii) if the amount so apportioned is 50 per cent. or more, but less than 80 per cent., of the net annual value, that amount shall be increased by 20 per cent. thereof (and the amount apportioned to the remainder of the hereditament shall be reduced accordingly) and the apportionment as so adjusted shall be shown in the valuation list;
  - (iv) if the amount so apportioned is 80 per cent or more of the net annual value, the hereditament shall be shown in the valuation list as used solely for the purposes of a prescribed recreation.

*Para. (3) rep by 1998 NI 22*

**F91** 1979 NI 4

#### **New valuation lists**

**45.**—<sup>F92</sup>(1) A new valuation list containing each general revaluation shall be prepared by the Commissioner and issued on or before 31st December in such year as the Department may by order subject to affirmative resolution specify.]

(2) A new valuation list shall come into force on 1st April next following the day on which the list was issued.

(3) Regulations may, with respect to new valuation lists,—

- (a) prescribe the method of issuing the lists;

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- (b) provide for the notices that are to be given in connection with the issue of the lists;
  - (c) provide for the deposit in some suitable place, for record purposes, of certified copies of the lists.
- (4) Any reference in Articles 41 to 44 to the valuation list includes a reference to a new valuation list.
- (5) Where, after a new valuation list has been issued but before the date on which the list is to come into force, it appears to the district valuer that, by reason of a material change of circumstances which has occurred since the time of valuation, or it appears to the Commissioner that, by reason of any [<sup>F93</sup> matter mentioned in Article 50(1)( a) or ( b)], the list needs to be altered in any respect in relation to any hereditament, the district valuer shall cause the list to be altered, or, as the case may be, the Commissioner shall alter the list accordingly before that date, and shall issue a certificate showing the alteration to—
- (a) the Department;
  - (b) the district council; and
  - (c) the occupier of the hereditament.
- (6) The omission from a new valuation list of any matter required by law to be included therein shall not of itself render anything contained in the list invalid.
- (7) The Department may by order make such incidental, consequential, transitional or supplemental provision as appears to the Department to be necessary or expedient in consequence of the coming into force of a new valuation list.
- (8) An order under paragraph (7) may contain provisions modifying or repealing any transferred provision, including such a provision contained in or made under this Order, a personal or local Act or Measure or an Act or Measure confirming a provisional order.
- (9) An order under paragraph (7) which contains provisions modifying or repealing any transferred provision contained in a public general Act or Measure shall be subject to affirmative resolution, and any other order made under that paragraph shall be subject to negative resolution.
- (10) The Commissioner may, before the issue of the new valuation list, make all such changes (by way of apportionment and otherwise) in the list as are necessary for bringing the entries in the list into conformity with any transferred provision as modified by the order.

**F92** Art 45(1) substituted by 1981 NI 13 art. 8

**F93** 1979 NI 4

### Deposit and inspection of copies of valuation list

- 46.—(1) When the Commissioner issues a new valuation list, he shall—
- (a) send to the Department such number of certified copies of the list as the Department directs; and
  - (b) send to each district council a certified copy of so much of the list as relates to hereditaments in the district of that council.
- (2) When the Department—
- (a) receives copies of any valuation list under paragraph (1)( a); or
  - (b) receives any certificates of an alteration in the list under the succeeding provisions of this Order,

it shall deposit at one or more than one place in each such area as the Department thinks fit a copy of the list and one of each of those certificates, or a copy of so much of the list and one of each such



certificate as relates to hereditaments in that area; and when a district council receives a copy of any part of a valuation list under paragraph (1)( *b*) or any such certificate as aforesaid, it shall deposit that copy or certificate at its offices.

(3) When the Department or a district council deposits a copy of a valuation list or any part of such a list under paragraph (2), it shall take such steps as it considers most suitable for giving notice of the deposit and of the rights of persons to inspect the list or that part and any certificates which may be deposited as mentioned in paragraph (2).

(4) The copies of, or any part of, a valuation list, and any certificates, deposited by the Department or a district council under paragraph (2) shall be open to public inspection without charge at any reasonable time.

(5) At any time when, under paragraph (4), a copy of any valuation list or part of such a list, or any certificate, is open to public inspection, members of the public may take copies of, or any part of, it.

### **Supply of copies of valuation lists, etc., and of information**

**47.**—(1) The Commissioner may supply to any court, tribunal, government department, district council or person copies or certified copies of, or of any part of,—

- (a) any valuation list [<sup>F94</sup> or any map or plan relating thereto]; and
- (b) any application, notice or certificate with respect to any revision of, or alteration in, a valuation list.

(2) The Commissioner shall afford to any officer having statutory functions which require that officer to ascertain the yearly value, rateable value or net annual value of any premises, such facilities for obtaining information as to those values as may be reasonably required in order to enable that officer to perform those functions.

(3) The Department may require the Commissioner to make charges, in accordance with a table of fees approved by the Department, for any copy of a list or document, or part of a list or document, supplied under paragraph (1).

[<sup>F94</sup> (4) In this Article any reference to a valuation list includes such a list prepared under the Rates (Northern Ireland) Order 1972 or the transferred provisions repealed by it.]

**F94** 1979 NI 4

### **Evidence of valuation lists, etc.**

**48.** Until the contrary is proved—

- (a) a certified copy of, or of any part of, any valuation list, or of any document such as is mentioned in Article 47(1)( *b*), shall be taken to be a true copy of the list, or part of the list, or document in question; and
- (b) a document purporting to be such a copy as is mentioned in paragraph ( *a*) shall be deemed to be such a copy.

### *Alteration in valuation list*

### **Revision of the valuation list, and alteration, by district valuer**

**49.**—(1) Subject to Article 50(3), where an application is served by any person on the district valuer for revision of the valuation list in relation to any hereditament, or where the district valuer, without such an application, considers that the valuation list ought to be revised in relation to any hereditament,—

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- (a) he shall revise the list so far as it relates to that hereditament, or, if that hereditament is not already included in the list, he shall revise the list with a view to including it; and
  - (b) if, in consequence of the revision, he considers that any alteration (whether, where an application has been made, it is the alteration applied for or some other) should be made in the list, he shall cause that alteration to be made.
- (2) Where the district valuer causes an alteration to be made in the valuation list under paragraph (1)( b), he shall serve certificates of the alteration on the persons mentioned in Article 56(8).
- (3) Where the district valuer, on completing a revision made following an application served on him under this Article, decides that no alteration should be made in the valuation list, he shall serve on the applicant notice of his decision.
- (4) The district valuer shall complete any revision made following an application served on him under this Article within the period of three months from the date on which he received the application, or within such further period or periods (none of which shall exceed three months) as he specifies in a notice, stating the reason for the delay, served by him on the applicant before the expiration of the immediately preceding period.
- (5) Where the date referred to in paragraph (4) falls before the first anniversary of the coming into force of a new valuation list, that paragraph shall have effect as if the first reference in it to three months were a reference to six months.

VALID FROM 01/04/2007

**[<sup>F95</sup>Transfer to the Commissioner of application under Article 49**

**49A.—**(1) The district valuer may, with the consent of the applicant, transfer to the Commissioner an application served on the district valuer under Article 49.

(2) Where an application is transferred under this Article, the functions of the district valuer in relation to the application served on him shall be exercisable by the Commissioner.]

**F95** Art. 49A inserted (1.4.2007) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), **31**; S.R. 2006/464, art. **2(4)**

**Alteration in the valuation list by Commissioner**

- 50.—**(1) The Commissioner may at any time—
- (a) make in the valuation list any alteration which is necessary—
    - (i) to correct any clerical error in the list;
    - (ii) in consequence of any alteration in a boundary that is made under the Boundary Survey (Ireland) Act 1854 , the Boundary Survey (Ireland) Act 1857 , the Boundary Survey (Ireland) Act 1859 or the County Boundaries (Ireland) Act 1872 or under section 50 of the Local Government Act (Northern Ireland) 1972 ;
    - (iii) to give effect to any apportionment made by him<sup>F96</sup> under Article 40(4)];
    - (iv) to show the net annual value of the hereditaments<sup>F97</sup> occupied by a holder of a licence or an exemption under Part II of the Electricity (Northern Ireland) Order 1992] of the hereditaments treated as occupied by a gas undertaking which are

mentioned in Part VII of<sup>F97</sup> Schedule 12], or of the hereditaments occupied by a dock authority which are mentioned in Part X of that Schedule;

*Head (v) rep. by 1998 NI 22*

- (b) alter the valuation list by deleting from it any hereditament which he is satisfied has ceased to exist.

(2) Where the Commissioner alters the valuation list under paragraph (1)( a) or ( b), he shall serve certificates of the alteration on the persons mentioned in Article 56(8).

(3) The district valuer shall not cause to be made in the valuation list any alteration such as is mentioned in paragraph (1)( a)(iii)<sup>F98</sup> or (iv)], but this Article shall not prejudice his power to cause to be made any alteration such as is mentioned in paragraph (1)( a)(i) or (ii) or ( b).

**F96** 1996 NI 25

**F97** SR 1997/118

**F98** 1998 NI 22

#### **Appeal to Commissioner against alteration of, or decision not to alter, the valuation list, or review by Commissioner of certain alterations made by him in the list.**

**51.**—(1) [<sup>F99</sup> Any person, other than the Department<sup>F100</sup> of the Environment or the Department of Finance and Personnel], who is aggrieved by an alteration which the district valuer has caused to be made in the valuation list, or any person who has served on the district valuer an application for revision of the valuation list and who is aggrieved by a decision of the district valuer not to cause the valuation list to be altered in consequence of the application] may, within twenty-eight days from the date of service on him of the certificate of the alteration, or, as the case may be, of the notice of the decision, appeal to the Commissioner against the alteration or decision.

(2) Any person, other than the Department<sup>F100</sup> of the Environment or the Department of Finance and Personnel], who is aggrieved by an alteration made in the valuation list by the Commissioner under Article 50(1)( a)(i) or ( b) may, within twenty-eight days from the date of service on him of the certificate of the alteration, apply to the Commissioner for a review of the alteration; and in the succeeding provisions of this Order any reference to an appeal to the Commissioner includes a reference to an application to him for a review under this paragraph or, as the case may require, to such a review, and references to an appellant or to hearing or determining an appeal shall be construed accordingly.

(3) An appeal to the Commissioner shall be instituted by a notice of appeal, signed by the appellant, stating—

- (a) the alteration desired or objected to;
- (b) the reasons for desiring or objecting to the alteration; and
- (c) where the appellant is not the owner, or is not the occupier, of the hereditament, the name and address of the owner, or, as the case may require, of the occupier or of both.

(4) The appellant shall, within the period of twenty-eight days mentioned in paragraph (1) or (2) (whichever is applicable), serve a copy of the notice of appeal on—

- (a) the occupier of the hereditament to which the appeal relates, where not the appellant; and
- (b) the owner of the hereditament, where he is not the occupier or the appellant.

(5) The appellant may, at any time before the Commissioner's decision on the appeal has been issued, abandon the appeal by serving a notice in that behalf on the Commissioner.

**F99** 1979 NI 4

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**F100** 1982 NI 6

### Procedure on appeal to Commissioner

**52.**—(1) Without prejudice to Article 53, where an appeal is made to the Commissioner under Article 51, the Commissioner shall investigate the subject matter of the appeal, and shall review the alteration that has been made in the valuation list or, as the case may require, shall review the decision not to cause the alteration applied for to be made.

(2) In the course of his investigation the Commissioner shall afford to every person who appears to him to be concerned therewith an opportunity to comment on the subject matter of the appeal and to furnish oral or other evidence respecting it.

(3) Without prejudice to paragraph (2), the Commissioner may obtain information from such persons and in such manner and make such inquiries as he considers appropriate, and may call for a report on the hereditament to which the appeal relates from a suitably qualified officer other than the officer previously employed—

- (a) in making the valuation originally included in the valuation list, or
- (b) in deciding not to cause to be made in the valuation list any alteration which was applied for, or
- (c) in causing to be made any alteration in relation to which the appeal is made.

(4) After completing his review, the Commissioner shall make such decision with respect to the manner in which the hereditament in question is to be treated in the valuation list as appears to him to be proper; and where that treatment requires an alteration in the valuation list the Commissioner—

- (a) shall alter the valuation list accordingly; and
- (b) may make such alteration in the valuation list in relation to any comparable hereditament which is in the same state and circumstances as the first-mentioned hereditament as appears to him to be necessary in order to render the valuations of that hereditament and the first-mentioned hereditament proportionate and uniform.

(5) Where the Commissioner alters the valuation list under paragraph (4)(a) or (b) he shall serve certificates of the alteration on the persons mentioned in Article 56(8).

(6) Where the Commissioner—

- (a) dismisses the appeal; or
- (b) makes in the valuation list in relation to the hereditament in question any alteration other than that desired by the appellant;

he shall serve notice of the dismissal or, as the case may require, a statement of his reasons for making that other alteration, on—

- (i) the appellant;
- (ii) the district council, where not the appellant<sup>F101</sup> and if requested by the council to do so; and
- (iii) every other person on whom a copy of the notice of appeal was served who submitted comments or furnished evidence to the Commissioner in connection with the appeal.

**F101** 1998 NI 22

### Power of Commissioner to transfer appeal to Lands Tribunal

**53.**—(1) Where an appeal is made to the Commissioner under Article 51 and the Commissioner is of the opinion that because of any difficulty arising or likely to arise in connection with, or in the course of determining, the appeal or for any other reason it is desirable that the appeal should be

heard and determined by the Lands Tribunal, the Commissioner, with the consent of the President of the Lands Tribunal, may transfer the appeal to the Lands Tribunal.

- (2) Where an appeal is transferred to the Lands Tribunal under this Article,—
- (a) the Tribunal may exercise any power exercisable by it on an appeal under Article 54 and paragraph (2) of that Article shall apply as it applies on an appeal under that Article; and
  - (b) subject to any agreement as to costs, the costs of the appeal shall be defrayed by the Department and any power to ask or apply for a review of the taxation of any such costs shall (without prejudice to its exercise by the other party to any such agreement) be exercisable by the Department.

### Appeal to Lands Tribunal from decision of Commissioner

**54.**—(1) Any person, other than the Department<sup>[F102]</sup> of the Environment or the Department of Finance and Personnel], who is aggrieved by the decision of the Commissioner on an appeal under Article 51 or by an alteration made by him in the valuation list in consequence of such a decision may appeal to the Lands Tribunal, and the Lands Tribunal may make any decision that the Commissioner might have made and, if any alteration in the valuation list is necessary to give effect to the decision, may direct that the valuation list be altered accordingly.

(2) On an appeal under this Article, the valuation shown in the valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.

**F102** 1982 NI 6

VALID FROM 01/12/2006

### <sup>[F103]</sup>Appeal from decision or direction of Valuation Tribunal

**54A.**—(1) Any person who is aggrieved by any decision or direction of the Valuation Tribunal under Article 13(3) or 54(2) may, with the leave of—

- (a) the Lands Tribunal; or
- (b) the President of the Valuation Tribunal,

appeal to the Lands Tribunal.

(2) For the purposes of paragraph (1), the Commissioner shall be treated as a person aggrieved by a decision or direction of the Valuation Tribunal under Article 13(3) relating to a determination made by the Department.

- (3) On an appeal under this Article the Lands Tribunal may—
- (a) make any decision that the Valuation Tribunal might have made;
  - (b) if any alteration in a valuation list is necessary to give effect to the decision, direct that the list be altered accordingly;
  - (c) remit the appeal or any matter arising on it to the Valuation Tribunal with such declarations or directions as the Lands Tribunal thinks proper.

(4) The Valuation Tribunal shall have regard to any declarations and obey any directions under paragraph (3)(c).

(5) On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.]

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**F103** Arts. 54 - 54A substituted (1.12.2006 for certain purposes, otherwise 1.4.2007) for art. 54 by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 33; S.R. 2006/464, art. 2(2), (4), Sch. 2

### Review of revision of valuation list made while appeal pending

**55.**—(1) When an appeal to the Lands Tribunal in relation to a hereditament is finally disposed of, the district valuer shall review any [<sup>F104</sup> alteration in, or decision not to alter, a valuation list in relation to the hereditament or any revaluation of] the hereditament which was made—

- (a) subsequent to the date of the alteration in [<sup>F104</sup> a valuation list], or the refusal to make such an alteration, which gave rise to the appeal; but
- (b) before the date on which the appeal was finally disposed of; having regard to the decision on the appeal.

(2) Where, on a review under paragraph (1), the district valuer is satisfied that any alteration should be made in [<sup>F104</sup> a valuation list] in relation to the hereditament, he shall cause [<sup>F104</sup> that valuation list] to be altered accordingly.

(3) Where the district valuer causes [<sup>F104</sup> a valuation list] to be altered under paragraph (2), he shall serve certificates of the alteration on the persons mentioned in Article 56(8); and where, on completing his review under paragraph (1), he decides that no alteration should be made in [<sup>F104</sup> a valuation list], he shall serve notice of his decision on the occupier of the hereditament and the district council.

(4) The occupier of the hereditament, or the district council, may appeal to the Commissioner against any alteration made in [<sup>F104</sup> a valuation list] under paragraph (2), or any decision of the district valuer such as is referred to in paragraph (3), and the provisions of Articles 51 to 54 shall, with the appropriate modifications, apply in relation to an appeal under this paragraph.

**F104** 1979 NI 4

### Supplementary provisions as to alterations, etc.

**56.**—(1) Every owner who is rated under Article 20 instead of the occupier, or who enters into an agreement with the Department under Article 21, in respect of any hereditaments shall, without prejudice to the rights of the occupier of any of those hereditaments, be treated for the purposes of the provisions of this Part relating to revisions, reviews and appeals as standing in the same position as the occupier.

(2) [<sup>F105</sup>Subject to paragraph (2A), where] any premises are unoccupied, any reference in this Part to the occupier shall be construed as a reference to the owner of the premises, except that, where the owner is unknown and by virtue of section 24(2)(e) of the Interpretation Act (Northern Ireland) 1954 a notice addressed to the occupier has been served in accordance with that section, that notice shall be deemed to have been duly served on that owner.

[<sup>F105</sup>(2A) Paragraph (2) shall not apply in relation to a hereditament in respect of which a person is chargeable to rates under Article 25A.]

(3) Any officer of a district council who is specifically or generally authorised in that behalf by the council may authorise the institution, carrying on or defence of any proceedings, or the taking of any step, in relation to a valuation list which the council is authorised or required to institute, carry on, defend or take.

(4) Where, under any provision of this Part, any thing is authorised or required to be done by or in relation to any person other than the Department, the Commissioner or a district council, that thing may be done by or to any duly authorised agent of that person.

(5) Any notice (including an application for a revision) required or authorised by this Part to be served on the Commissioner or the district valuer need not name the Commissioner or the district valuer but may describe him as the Commissioner or, as the case may require, as the district valuer for the valuation district in question, without further description.

(6) Where, under any provision of this Part, the district valuer is required or authorised to cause any matter to be entered, or any alteration to be made, in the valuation list or in a new valuation list which has not yet come into force, the district valuer shall notify the Commissioner of that matter or alteration and the Commissioner shall prepare or alter the list accordingly.

(7) Where an alteration in the valuation list is necessary to give effect to a decision of the Lands Tribunal on an appeal made or transferred to the Tribunal under this Part, the Commissioner shall—

- (a) whether upon the direction of the Tribunal or otherwise, make that alteration; and
- (b) serve a certificate of the alteration on the persons mentioned in paragraph (8).

(8) The certificates of alterations in the valuation list mentioned in Articles 49(2), 50(2), 52(5), and 55(3) and in paragraph (7) shall be served on—

*Sub-para. (a) rep. by 1998 NI 22*

- (b) the district council<sup>[F106]</sup> if requested by the council to do so];
- (c) the person (if any) in consequence of whose application or appeal the alteration is made, where not the Department or the district council;
- (d) except where the alteration is made under Article 50(1)(a)(ii), (iii), (iv) or (v) or (b), the occupier of the hereditament, where not the person mentioned in sub-paragraph (c); and
- (e) where the alteration is made in consequence of an appeal, every other person on whom a copy of the notice of appeal was served who submitted comments or furnished evidence in connection with the appeal.

**F105** 2004 NI 4

**F106** 1998 NI 22

### **Duties of public bodies with respect to alterations in valuation list**

**57.**—(1) If in the course of the exercise of its functions any <sup>[F107]</sup>relevant information comes to the notice of a public body, it shall be the duty of that body to inform the district valuer.

<sup>[F108]</sup>(2) In this Article—

“inform” includes, in relation to a public body, giving relevant information in the possession or control of that body;

“public body” means—

- (a) a body established by or under a statutory provision; or
- (b) a department of the Government of the United Kingdom;

“relevant information” means information which is relevant to a decision whether to alter a valuation list;

“valuation list” includes a valuation list which has been issued but which has not yet come into force.]

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**F107** Words in art. 57(1) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **13(1)**; S.R. 2006/146, **art. 2**

**F108** Art. 57(2) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **13(2)**; S.R. 2006/146, **art. 2**

**Modifications etc. (not altering text)**

**C8** Arts. 57 - 60 applied (with modifications) (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **14(1)**; S.R. 2006/146, **art. 2**

*Miscellaneous*

**Powers of entry of valuers**

**58.**—(1) The Commissioner or any person authorised by him in writing in that behalf may, on production if required of his credentials, at any reasonable time enter any land for the purpose of the survey, valuation or examination of that or any other land.

(2) A power of entry under paragraph (1) shall not be exercisable in relation to any land except—

- (a) with consent given by the occupier of the land or, if the land is not occupied, by the owner thereof; or
- (b) after at least twenty-four hours' notice of the intended entry has been served on the occupier or, if the land is not occupied, on the owner.

(3) Where in the exercise of his powers under this Article a person enters any land, he shall ensure that the land is not left less secure by reason of the entry; and the Department shall make good or pay compensation for any damage to property caused by the person in exercising any power or failing to perform any duty under this Article.

(4) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

**Modifications etc. (not altering text)**

**C9** Arts. 57 - 60 applied (with modifications) (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **14(1)**; S.R. 2006/146, **art. 2**

**Power to call for returns**

**59.**—(1) Where a new valuation list is to be made, the Commissioner or the district valuer may serve a notice on the occupier, owner or lessee of any hereditament or premises or on any two or on all of them, requiring him or them to make a return, within a period and in the manner specified in the notice, containing such particulars as may be reasonably required for the purpose of enabling the list to be accurately prepared.

(2) The district valuer may at any time in connection with an application which has been made for revision of the valuation list, or with a view to a revision of the list without an application, serve a notice on the occupier, owner or lessee of any hereditament or premises or on any two or on all of them requiring him or them to make a return, within a period and in the manner specified in the notice, containing such particulars as may be reasonably required for the purpose of enabling the district valuer to decide whether or not to make the revision or to cause any alteration to be made in the valuation list in consequence of the revision.



(3) Where a notice is served on a person under paragraph (1) or (2), he shall comply with the notice.

**Modifications etc. (not altering text)**

**C10** Arts. 57 - 60 applied (with modifications) (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **14(1)**; S.R. 2006/146, **art. 2**

## PART IV GENERAL

### Offences

**60.**—(1) If any person on whom a notice has been served under Article 22(2),<sup>[F109 26]</sup> or 59(1) or (2) fails without reasonable excuse to comply with the notice, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F110 level 3 on the standard scale]</sup>.

(2) Where a person is convicted under paragraph (1) in respect of a failure to comply with a notice and the failure continues after the conviction, then, unless he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under paragraph (1) and shall be liable on summary conviction, in addition to the fine specified in that paragraph, to a fine not exceeding<sup>[F110 level 1 on the standard scale]</sup> for every day subsequent to the day on which he is first convicted of an offence under that paragraph on which the failure continues.

(3) If any person in response to a notice under Article 22(2) or<sup>[F109 26]</sup>, or in a return made under Article 59(1) or (2), makes a statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding<sup>[F110 level 3 on the standard scale]</sup>, or to both.

(4) If any person, other than the occupier or owner of land, knowingly prevents any other person from doing on the land any act that the other person is authorised under Article<sup>[F109 26A or] 58</sup> to do or obstructs the other person in doing any such act, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F110 level 3 on the standard scale]</sup>.

(5) If any person, being the occupier or owner of land, knowingly prevents any other person from doing on the land any act that the other person is authorised under Article<sup>[F109 26A or] 58</sup> to do or obstructs the other person in doing any such act, a court of summary jurisdiction on proof thereof may order him to permit to be done on the land that act and all such things as are reasonably necessary to enable the act to be done or as are incidental to the doing of it; and, if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding<sup>[F110 level 1 on the standard scale]</sup>.

**F109** 2004 NI 4

**F110** 1984 NI 3

**Modifications etc. (not altering text)**

**C11** Arts. 57 - 60 applied (with modifications) (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **14(1)**; S.R. 2006/146, **art. 2**

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**Regulations**

61.—(1) Regulations may—

- (a) prescribe the form of any valuation list, certificate, application, statement, return, notice or other document whatsoever which is required or authorised to be used under or for the purposes of this Order;
- (b) substitute for any period mentioned in Article 12(1)(c), 13(1)(a)(ii), 49(4) or (5), or 51(1), (2) or (4) any other period; <sup>F111</sup> ...

(bb) <sup>F112</sup> .....

(c) make provision with respect to the making of reviews under Article 55.

[<sup>F113</sup>(1A) In paragraph (1) “regulations” means regulations made by the Department of the Environment or the Department of Finance and Personnel, depending upon which of those Departments exercises functions under—

- (a) the provision which requires or authorises a document referred to in paragraph (1)(a) to be used; or
- (b) the provision mentioned in paragraph (1)(b) or (c).]

(2) Regulations under paragraph (1)(b) shall be subject to affirmative resolution, and any other regulations shall be subject to negative resolution.

<b>F111</b>	1979 NI 4
<b>F112</b>	Art. 61(1)(bb) repealed (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), 16, Sch. 4; S.R. 2006/146, art. 2
<b>F113</b>	1982 NI 6

[<sup>F114</sup>**Service of documents**

62.—(1) The following documents, that is to say,—

- (a) a demand note under Article 9(4); and
- (b) a certificate under Article 49(2) of an alteration made by the district valuer in the valuation list or a notice under Article 49(3) of a decision by the district valuer that no alteration should be made in the valuation list,

may be served on, respectively, the person charged with a rate and the persons mentioned in Article 56(8) or the person who applied for revision of the list by being sent to him or them by ordinary post.

(2) A process under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981 for the recovery of any sum due to the Department of the Environment on account of a rate may be served—

- (a) by being sent by that Department by ordinary post; or
- (b) by any mode of service permitted by magistrates' courts rules.

(3) In section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents), as it applies to the service by post of such a note, certificate, notice or process, the word “registering” shall be omitted.]

<b>F114</b>	1986 NI 21
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**Amendments, transitional provisions, construction of references, savings and repeals**

*Para. (1), with Schedule 15, effects amendments*

(2) Schedule 16 (which largely re-enacts by reference to this Order transitional and saving provisions, and provisions for the construction of references, which were contained in provisions repealed by this Order) shall have effect.

*Para.(3), with Schedule 17, effects repeals*

(4) In the application of section 29 of the Interpretation Act (Northern Ireland) 1954 to any repeal made by this Order, subsection (1) and paragraph ( a) of subsection (3) shall have effect as if the word “statutory”, wherever it occurs, were omitted.

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## SCHEDULES

### SCHEDULE 1

Article 3

#### DEFINITIONS OF “AGRICULTURAL LAND”, “AGRICULTURAL BUILDINGS” AND “LIVESTOCK OR POULTRY BUILDING”

**1.** In this Order, “agricultural land”

- (a) means any land used as arable, meadow or pasture ground only (including pastoral land), land used for a plantation or a wood or for the growth of saleable underwood, or land exceeding [<sup>F115</sup> 0.1012 hectare] used for the purposes of poultry farming, market gardens, nursery grounds, orchards or allotments, but does not include land occupied together with a house as a park, gardens or pleasure grounds, or land kept or preserved mainly or exclusively for purposes of sport or recreation or land used as a racecourse; and
- (b) includes land occupied with, and used solely in connection with the use of, such a building as is mentioned in paragraph 2(1)( b).

**F115** 1979 NI 4

**2.—(1)** In this Order, “agricultural buildings”

- (a) means buildings occupied together with agricultural land and used solely in connection with agricultural operations thereon, or buildings being or forming part of a market garden and used for the purposes thereof; and
- (b) includes a building which is used solely in connection with agricultural operations carried on on agricultural land and which is occupied either—
  - (i) by the occupiers of all that land; or
  - (ii) by individuals who are appointed by the said occupiers for the time being to manage the use of the building and of whom each is an occupier of some of the land or a member of the board of directors or other governing body of such an occupier who is a body corporate,

where the number of occupiers of all the said land does not exceed twenty-four (two or more persons occupying jointly being counted as one, but as a separate person from any of them who are occupying any of the land severally); and

- (c) also includes a building which is used in connection with agricultural operations carried on on agricultural land and which is occupied by a body corporate any of whose members are, or are together with the body, the occupiers of the land, where that use, or that use together with the use mentioned in paragraph 3(1)( b) is its sole use; but does not include a building which is a dwelling-house.

(2) In this paragraph “building” includes a distinct part of a building.

**3.—(1)** In this Order, “livestock or poultry building”

- (a) means a building which—

- (i) is used for the production of livestock or poultry<sup>F116</sup> or is used for the scientific testing of livestock or poultry for the purposes of the improvement of breeding stock]; or
- (ii) is occupied together with one or more than one other building used for the production of livestock or poultry<sup>F116</sup> or used for the scientific testing of livestock or poultry for the purposes of the improvement of breeding stock] and is used in connection with the operations carried on in that other building or those other buildings;

where either the use mentioned in sub-head (i) or (ii) is the sole use, or the building is occupied together with agricultural land and used also in connection with agricultural operations on that land and that use together with the use mentioned in sub-head (i) or (ii) (as the case may require) is its sole use; and

- (b) includes a building which—
    - (i) is used solely in connection with the operations carried on in one or more than one building to which head ( a ) applies; and
    - (ii) is occupied either—
      - (aa) by a body corporate any of whose members are, together with the body, the occupiers of that building or those buildings; or
      - (bb) by persons who would satisfy the requirements of paragraph 2(1)( b)(ii) if the building were an agricultural building;
- and whose use as mentioned in this paragraph, or that use together with the use mentioned in paragraph 2(1)( c ), is its sole use;

but does not include an agricultural building or a dwelling-house.

- (2) In this paragraph—
  - “building” includes a distinct part of a building;
  - “livestock” means any animal kept for the production of food, wool, skins or fur;
  - “poultry” includes the eggs of poultry;
  - “production” includes the breeding, rearing, fattening and keeping of livestock or poultry, but does not include the keeping of livestock or poultry which are in transit.

**F116** 1998 NI 22

**4.** In determining for the purposes of this Schedule whether anything used in any way is solely so used or whether any use of it is its sole use, no account shall be taken of any time in which it is used in any other way if that time does not amount to a substantial part of the time during which it is used.

## <sup>F117</sup> SCHEDULE 2

Article 3, Sch.14.

### DEFINITIONS RELATING TO INDUSTRIAL HEREDITAMENTS

**F117** prosp. rep. by 2004 NI 4

- 1.** In this Order—

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“factory”, subject to the provisions of this Schedule, has the meaning assigned to it by section 175 of the Factories Act (Northern Ireland) 1965 ;

*Definition rep. by 1994 NI 11*

[<sup>F118</sup>“industrial hereditament” means a hereditament, exclusive of any part of the hereditament for which the net annual value is apportioned under Article 44(2) as being used for the purposes of a private dwelling, which is occupied and used as—

- (a) a mine or quarry; or
- (b) subject as provided in this Schedule, a factory;]

“mine” has the meaning assigned to it by section 156 of the Mines Act (Northern Ireland) 1969 and includes anything which by virtue of that section is deemed to form part of a mine;

“public supply undertaking” means any undertaking primarily carried on for the supply of gas, water, electricity or hydraulic power for public purposes, or to members of the public, or [<sup>F119</sup>for the treatment of sewage, or] to any one or more undertakings carried on under any statutory provision (including such a provision contained in or made under a local or personal Act or Measure or an Act or Measure confirming a provisional order);

“quarry” has the meaning assigned to it by [<sup>F120</sup> Article 2(2) of the Quarries (Northern Ireland) Order 1983] and includes anything which by virtue of that [<sup>F120</sup> Article] is deemed to form part of a quarry;

“retail shop” includes any premises of a similar character where retail trade or business including repair work) is carried on.

**F118** 1996 NI 25

**F119** 1998 NI 22

**F120** 1983 NI 4

**2.** For the purposes of this Order—

*Sub-para. (a) rep. by 1994 NI 11*

[<sup>F121</sup>**2A**]. [<sup>F121</sup>For the purposes of sub-paragraph (b) of the definition of “industrial hereditament”]

[<sup>F121</sup>(a) a hereditament shall be deemed not to be occupied and used as a factory if it is primarily occupied and used for any of the following purposes, or for a combination of any such purposes—

- (i) the purposes of a retail shop;
- (ii) the purposes of distributive wholesale business;
- (iii) the purposes of storage;
- (iv) the purposes of a public supply undertaking;
- (v) any other purposes whether or not similar to any of the foregoing, which are not those of a factory;]

(b) a hereditament shall not be deemed not to be occupied and used as a factory by reason only of the fact that the owner or occupier of the hereditament is the only person working therein or that no other person working therein is in his employment;

(c) any place used by the occupier for the housing or maintenance of his road vehicles or as stables shall, notwithstanding that it is situated within the close, curtilage or precincts forming a factory and used in connection therewith, be deemed not to form part of the factory.

**F121** 1996 NI 25

3. Where two or more properties within the same curtilage, or contiguous to one another are in the same occupation and, though treated for any reason as two or more hereditaments for the purposes of valuation and rating, are used as parts of a single mine, quarry or factory, then, for the purposes of determining whether the several hereditaments are industrial hereditaments, they shall be treated as if they formed parts of a single hereditament comprising all those hereditaments.

<sup>F122</sup>SCHEDULE 3

Article 3.

DEFINITIONS RELATING TO RAILWAY HEREDITAMENTS

**F122** Sch. 3 repealed (prosp.) by Rates (Amendment) Act (Northern Ireland) 2009 (c. 8), ss. 8(3)(d), 18, 19(1), Sch. 2

In this Order—

“non-running-line hereditament” means a railway hereditament which is not a running-line hereditament;

“railway company” means a body operating a railway undertaking;

“railway hereditament” means a hereditament occupied by a railway company for the purpose of its undertaking but does not include—

- (a) any hotel, refreshment room, dwelling-house, residence, town office or town receiving depot;
- (b) any premises used and occupied for the purposes of subsidiary services (other than those connected with the local collection and delivery of parcels, goods or merchandise conveyed, or to be conveyed, by rail) carried on by that company for the purpose of road, sea or other transport;
- (c) any waterworks, electric light works, power works or gas works, unless they are used mainly to supply the undertaking;
- (d) any store, building or premises let by that company, or, if unused, capable of being so let;

“running-line” means the railway line or lines which are used primarily for the conveyance of railway traffic from place to place and includes the land under, between and adjoining such line or lines, but does not include land which is the site of buildings, structures, sidings, platforms, yards and approaches;

“running-line hereditament” means a railway hereditament which consists of running-line only.

[<sup>F123</sup>The Department may, by order subject to affirmative resolution, modify the provisions of this Schedule.]

**F123** 1996 NI 25

**Status:** Point in time view as at 23/11/2006. This version of this Order contains provisions that are not valid for this point in time.

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## SCHEDULE 4

Article 3.

### DEFINITIONS RELATING TO FREIGHT-TRANSPORT HEREDITAMENTS

In this Order—

“canal transport purposes” means all purposes connected with the conveyance or transport by canal of carriages, parcels or merchandise, including the construction, maintenance and repair of all ways, works, machinery and plant used in connection with the canal undertaking;

“canal undertaking” includes any inland navigation undertaking comprising as part thereof an inland navigation used for the conveyance of merchandise, and “canal”, in relation to such an undertaking, shall be construed as including an inland navigation;

“dock” includes any harbour, wharf, pier, jetty or other works in or at which vessels can ship or unship merchandise or passengers not being a pier or jetty primarily used for recreation;

“dock authority” means any person or body of persons, whether incorporated or not, who are authorised to construct, or are owners or lessees of, any dock authorised by any statutory provision;

“dock purposes” means all purposes connected with the shipping or unshipping at a dock of passengers and their luggage, or of carriages, parcels or merchandise, or the conveyance or transport thereof by a railway forming part of a dock undertaking, including the construction, maintenance and repair of all ways, works, machinery and plant used in connection with the undertaking, or connected with the provision of accommodation for vessels and their stores, equipment and tackle (including fishing tackle), whether for purposes of repair or otherwise;

“dock undertaking” means an undertaking carried on by a dock authority, but also includes any other undertaking comprising as part thereof a dock in so far only as its business is carried on at and in connection with that dock;

“freight-transport hereditament” means all or any of the following hereditaments—

- (a) a hereditament occupied and used wholly or partly for canal transport purposes as part of a canal undertaking, being an undertaking whereof a substantial proportion of the volume of the business is concerned with the conveyance of merchandise not belonging to, or intended for the use of, the undertakers;
- (b) a hereditament, having a net annual value exceeding<sup>[F124]</sup> £825], occupied and used wholly or partly for dock purposes as part of a dock undertaking, being an undertaking whereof a substantial proportion of the volume of business is concerned with the shipping and unshipping of merchandise not belonging to, or intended for the use of, the undertakers;
- (c) a hereditament occupied and used wholly or partly for railway transport purposes as part of a railway undertaking carried on by a railway company being an undertaking whereof the railway is used as a public railway for the conveyance of merchandise otherwise than by passenger train or carriage, and which comprises at least two stations situated in Northern Ireland and used for railway transport purposes;

but so that a hereditament primarily occupied and used as offices for or for purposes ancillary to, the general direction and management of a canal, dock or railway undertaking shall not be deemed a freight-transport hereditament;

“merchandise” includes goods, minerals, livestock and animals of all descriptions;

“railway transport purposes” means all purposes connected with the conveyance or transport by railway of passengers and their luggage, or of carriages, parcels or merchandise, including the construction, maintenance and repair of all ways, works, machinery and plant used in connection with the railway undertaking;

“transport purposes” means all or any of the following purposes—



- (a) canal transport purposes;
- (b) dock purposes;
- (c) railway transport purposes;

“vessel” has the<sup>F125</sup> same meaning as “ship” in the Merchant Shipping Act 1995] and includes a hovercraft within the meaning of the Hovercraft Act 1968 .

**F124** SR 2003/73

**F125** 1995 c. 21

## SCHEDULE 5

Article 4.

### DEFINITION OF “DWELLING-HOUSE”, ETC.

#### Modifications etc. (not altering text)

**C12** Sch. 5 applied (with modifications) (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), 3(3), **Sch. 1 para. 1(1)(2)**; S.R. 2006/146, **art. 2**

1. Subject to the provisions of this Schedule, in this Order “dwelling-house” means a hereditament used wholly for the purposes of a private dwelling.

<sup>F126</sup>2.—(1) A hereditament which is wholly or mainly used in the course of a business for the provision of short-stay accommodation, that is to say accommodation—

- (a) which is provided for short periods to individuals whose sole or main residence is elsewhere, and
- (b) which is not self-contained self-catering accommodation provided commercially,

shall be deemed not to be used for the purposes of a private dwelling.

(2) Sub-paragraph (1) does not apply if—

- (a) it is intended that within the year from the day in relation to which the question is being considered, short-stay accommodation will not be provided within the hereditament for more than 6 persons simultaneously; and
- (b) the person intending to provide such accommodation intends to have his sole or main residence within that hereditament throughout any period when such accommodation is to be provided, and that any use of living accommodation within the hereditament which would apart from this sub-paragraph, cause any part of it to be deemed not to be used for the purposes of a private dwelling, will be subsidiary to the use of the hereditament for, or in connection with, his sole or main residence.

(3) A hereditament or self-contained part of a hereditament shall be deemed not to be used for the purposes of a private dwelling if—

- (a) the owner or, as the case may be, the occupier of the hereditament intends that, in the year from the day in relation to which the question is being considered, the whole of the hereditament or self-contained part will be available for letting commercially, as self-catering accommodation, for short periods totalling 140 days or more; and

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(b) on that day his estate in the hereditament or part is such as to enable him to let it for such periods.

(4) Sub-paragraph (3) does not apply where the hereditament or self-contained part is used as the sole or main residence of any person.]

**F126** 1996 NI 25

**3.** A hereditament shall not be deemed to be used otherwise than wholly for the purposes of a private dwelling by reason of either or both of the following circumstances—

- (a) that it includes a garage, outhouse, garden, yard, court, forecourt or other appurtenance which is not used, or not used wholly, for the purposes of a private dwelling;
- (b) that part of the hereditament, not being a garage, outhouse, garden, yard, court, forecourt or other appurtenance, is used partly for the purposes of a private dwelling and partly for other purposes, unless that part was constructed, or has been adapted, for those other purposes.

**4.—(1)** A hereditament shall not be deemed to be used otherwise than wholly for the purposes of a private dwelling by reason that a person who resides in the hereditament, or in part thereof, is required or permitted to reside therein in consequence of his employment or of holding an office.

(2) Without prejudice to sub-paragraph (1), a hereditament shall be deemed to be used wholly for the purposes of a private dwelling if it is, or is treated for the purposes of Article 41 as,—

- (a) of a description mentioned in paragraph (2) of that Article, and
- (b) used wholly for domestic purposes within the meaning of that Article;

and where—

- (i) a hereditament is treated for the purposes of that Article as of a description so mentioned by reason of a distinct part of the hereditament being of that description and that part is used as mentioned in head (b), or
- (ii) a distinct part of a hereditament is treated for the purposes of that Article as of a description so mentioned and as so used,

the hereditament, to the extent of so much of its net annual value as is apportioned to that part, shall be deemed to be used for the purposes of a private dwelling.

VALID FROM 01/12/2006

<sup>F127</sup>**4ZA.—(1)** A hereditament or part of a hereditament shall be deemed not to be used for the purposes of a private dwelling if it is—

- (a) held by the Secretary of State for the purposes of armed forces accommodation; and
- (b) situated within the perimeter of a military establishment.

(2) In this paragraph “military establishment” means an establishment used by any of Her Majesty's forces.]

**F127** Sch. 5 para. 4ZA inserted (1.12.2006) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 39, Sch. 2 para. 41(6); S.R. 2006/464, art. 2(2), Sch. 2 (with transitional provisions in S.R. 2006/468, art. 3(1), Sch.)

[<sup>F128</sup>4A.—(1) Subject to sub-paragraph (2), a hereditament or part of a hereditament shall be deemed to be used wholly for the purposes of a private dwelling if—

- (a) it constitutes, or forms part of, a prison; and
- (b) it is used as one or more of the following—
  - (i) a cell (other than a special punishment cell);
  - (ii) a common recreational area (other than a sports hall or an uncovered area);
  - (iii) a library;
  - (iv) a chapel;
  - (v) a kitchen;
  - (vi) a dining room;
  - (vii) toilets;
  - (viii) personal washing facilities;
  - (ix) a laundry for the exclusive use of prisoners;
  - (x) a storage area which is within a cell block and which is used in connection with other premises covered by this head;
  - (xi) a corridor linking premises covered by this head; and
  - (xii) a boiler or plant room which to any extent serves other premises covered by this head.

(2) Without prejudice to sub-paragraph (1), so much of the prison in question which is used as a kitchen, dining-room, toilets or personal washing facilities provided for the exclusive use of persons employed in that prison shall not be deemed to be used wholly for the purposes of a private dwelling.]

**F128** 1998 NI 22

5. In this Schedule—

- [<sup>F129</sup>(a) “business” includes—
- (i) any activity carried on by a body to which Article 41 applies; and
  - (ii) any activity carried on by a charity within the meaning of that Article;
- (b) “commercially” means on a commercial basis, and with a view to the realisation of profits;]
- (c) references to the purposes of a private dwelling include references to the purposes of private dwellings.
- [<sup>F130</sup>(d) “prison” includes a young offenders centre provided under section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968 and a remand centre provided under paragraph (b) of that section but does not include a naval, military or air force prison.]

**F129** 1996 NI 25

**F130** 1998 NI 22

VALID FROM 01/12/2006

[<sup>F131</sup>6.—(1) In this Order “private garage” means, subject to sub-paragraph (2), a hereditament which is used wholly or mainly for the accommodation of a motor vehicle.

**Status:** Point in time view as at 23/11/2006. This version of this Order contains provisions that are not valid for this point in time.

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- (2) For the purposes of sub-paragraph (1) a hereditament which is used—
- (a) for the purposes of a trade or business; or
  - (b) by a charity, a public body or any other body that is not established or conducted for profit,

is not a private garage.

- (3) In sub-paragraph (2)—
- “charity” means a body established for charitable purposes only;
- “public body” means—
- (a) a body established by or under a statutory provision; or
  - (b) a department of the Government of the United Kingdom.

**F131** Sch. 5 paras. 6 - 8 added (1.12.2006) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 39, Sch. 2 para. 41(9); S.R. 2006/464, art. 2(2), Sch. 2 (with transitional provisions in S.R. 2006/468, art. 3(1), Sch.)

VALID FROM 01/12/2006

7.—(1) In this Order “private storage premises” means a hereditament which is used wholly in connection with a dwelling-house or dwelling-houses and so used wholly or mainly for the storage of domestic articles belonging to the residents.

- (2) In sub-paragraph (1)—
- “domestic articles” means—
- (a) household stores and other articles for domestic use;
  - (b) light vehicles, whether mechanically-propelled or not;
- “residents” means persons residing in the dwelling-house or dwelling-houses referred to in sub-paragraph (1).

**F131** Sch. 5 paras. 6 - 8 added (1.12.2006) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 39, Sch. 2 para. 41(9); S.R. 2006/464, art. 2(2), Sch. 2 (with transitional provisions in S.R. 2006/468, art. 3(1), Sch.)

VALID FROM 01/12/2006

8. The Department may by regulations modify paragraphs 1 to 7.]

**F131** Sch. 5 paras. 6 - 8 added (1.12.2006) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 39, Sch. 2 para. 41(9); S.R. 2006/464, art. 2(2), Sch. 2 (with transitional provisions in S.R. 2006/468, art. 3(1), Sch.)

## SCHEDULE 6

Articles 5, 13(1), 45(5).

### DEFINITIONS OF “MATERIAL CHANGE OF CIRCUMSTANCES” AND “THE TIME OF VALUATION”

1. In this Order—  
“material change of circumstances” means a change of circumstances which consists of—
- (a) the coming into occupation of a newly erected or newly constructed hereditament or of a hereditament which has been out of occupation on account of structural alterations; or
  - (b) a change in the value of a hereditament caused by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause; or
  - (c) the happening of any event whereby—
    - (i) any property or part of any property begins, or ceases, not to be treated as a hereditament; or
    - (ii) any hereditament or part of any hereditament begins or ceases to be entitled to be distinguished in the valuation list in pursuance of Article 41, 42 or 43; or
  - (d) property previously valued as a single hereditament becoming liable to be valued as two or more hereditaments; or
  - (e) property previously valued as two or more hereditaments becoming liable to be valued as a single hereditament; or
  - (f) a hereditament becoming or ceasing to be a dwelling-house; or
  - (g) a hereditament being used to a greater or lesser extent for the purposes of a private dwelling or private dwellings.

2. In this Order “the time of valuation”, in relation to a change of circumstances, means the time by reference to which so much of the valuation list was prepared as is affected by that change of circumstances.

## SCHEDULE 7

Article 17.

### RATEABLE VALUE OF HEREDITAMENTS

#### General

1. Except as provided to the contrary in this Schedule, the rateable value of any hereditament shall be its net annual value.

#### Hereditaments wholly exempt from rates

2. Where a hereditament is distinguished in the valuation list as wholly exempt from rates, its rateable value shall be nil.

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## Hereditaments partially exempt from rates

**3.**—<sup>F132</sup>(1) Where a hereditament is distinguished in the valuation list under Article 41 as partially exempt from rates, its rateable value shall be the aggregate of—

- (a) one-half of so much of its net annual value as is shown in the list as apportioned to the use of the hereditament for such of the purposes mentioned in sub-paragraph ( a), ( b)(i) or (ii), ( c), ( d)<sup>F133</sup> or (e)] of Article 41(2) as are domestic purposes within the meaning of that Article; and
- (b) the whole of so much of its net annual value as is shown in the list as apportioned to the use of the hereditament for purposes other than the purposes mentioned in that sub-paragraph.

<sup>F134</sup>(2) Where—

- (a) any hereditament was, immediately before the relevant date, distinguished in the valuation list as exempt from rates to any extent by virtue of Article 41(2)(f); and
- (b) it continues to be distinguished in the valuation list by virtue of Article 12(2) of the 2006 Order,

its rateable value shall continue to be the same proportion of its net annual value as it was immediately before the relevant date.

(3) Where a hereditament is distinguished in the valuation list as exempt from rates by virtue of Article 12(3) of the 2006 Order, its rateable value shall be the same proportion of its net annual value as it would have been immediately before the relevant date if it had been distinguished under Article 41(2)(f).

(4) Where a hereditament is distinguished in the valuation list by virtue of paragraph (4) of Article 12 of the 2006 Order, its rateable value shall be the same proportion of its net annual value as the rateable value of the original hereditament was of its net annual value immediately before it ceased to be occupied as mentioned in sub-paragraph (a) of that paragraph.

(5) In this paragraph—

“2006 Order” means the Rates (Capital Values, etc.) (Northern Ireland) Order 2006;

“original hereditament” means the hereditament to which sub-paragraphs (a) and (b) of Article 12(4) of the 2006 Order apply;

“relevant date” means the date on which Article 12(1) of the 2006 Order (which repealed Article 41(2)(f)) came into operation.]

**F132** Sch.7 para. 3 renumbered (1.4.2006) as sub-para. (1) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **12(8)(b)**; S.R. 2006/146, **art. 2**

**F133** Words in Sch. 7 para. 3(a) substituted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **12(8)(a)**; S.R. 2006/146, **art. 2**

**F134** Sch. 7 para. 3(2)-(5) inserted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), **12(8)(b)**; S.R. 2006/146, **art. 2**

<sup>F135</sup>**3A** Where a hereditament is distinguished in the valuation list under Article 42 (1B) as partially exempt from rates, its rateable value shall be—

- (a) where the hereditament is situated wholly within an enterprise zone and, though not a dwelling-house, is used partly for the purposes of a private dwelling, so much of its net annual value as is shown in the list as apportioned to the use of the hereditament for the purposes of a private dwelling;

- (b) where part only of the hereditament is situated within an enterprise zone and, though not a dwelling house, the hereditament is used partly for the purposes of a private dwelling, the aggregate of—
- (i) so much of its net annual value as is shown in the list as apportioned to that part of the hereditament which is not situated within an enterprise zone; and
  - (ii) so much of its net annual value as is shown in the list as apportioned to the use of that part of the hereditament situated within an enterprise zone for the purposes of a private dwelling.
- (c) where part only of the hereditament is situated within an enterprise zone and sub-paragraph (b) does not apply, so much of its net annual value as is shown in the list as apportioned to that part of the hereditament which is not situated within an enterprise zone.]

**F135** 1983 NI 7

#### Industrial hereditaments (except fishing hereditaments) and freight-transport hereditaments

[<sup>F136F137</sup>4.—(1) This paragraph applies to industrial hereditaments<sup>F138</sup>. . . .

(2) Where a hereditament to which this paragraph applies is distinguished in the valuation list as being occupied and used wholly for industrial purposes, its rateable value shall be<sup>F139</sup> subject to sub-paragraph (3)] nil.

[<sup>F139</sup>(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.]]

**F136** 1983 NI 10

**F137** prosp. rep. by 2004 NI 4

**F138** 1994 NI 11

**F139** 2004 NI 4

[<sup>F140</sup>4A.—(1) This paragraph applies to freight-transport hereditaments.

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(2) Where a hereditament to which this paragraph applies is distinguished in the valuation list as being occupied and used wholly for transport purposes, its rateable value shall be one-quarter of its net annual value.]

**F140** 1983 NI 10

**4B.**—(1) Where a hereditament to which<sup>F141</sup> paragraph 4 or paragraph 4A applies is distinguished in the valuation list as being occupied and used partly for<sup>F141</sup> industrial purposes or transport purposes and partly for other purposes, its rateable value shall be the aggregate of—

[<sup>F142F141</sup>(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;]

- (a) one quarter 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 transport purposes, if any; and
- (b) the whole 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 purposes other than<sup>F141</sup> industrial purposes or transport purposes.

(2) For the purposes of this paragraph the property of the Belfast Harbour Commissioners within the limits of the port and harbour of Belfast, as defined by the Belfast Harbour Act 1882, held by the said Commissioners and in their actual occupation for their own use or for public purposes, shall be deemed to be a freight-transport hereditament occupied and used wholly for transport purposes.

**F141** prosp. rep. by 2004 NI 4

**F142** 2004 NI 4

*Para. 5 rep. by 1994 NI 11*

## SCHEDULE 8

Articles 23, 25.

### INCIDENCE OF RATES

#### Occupiers, generally, not to deduct rates from rent

1. Except as provided in this Order, the occupier of a hereditament shall not be entitled to deduct from his rent any part of a rate.

#### Contracts or covenants for payment of rates

2. Without prejudice to the provisions of this Order with respect to the chargeability of persons to rates, a contract or covenant may provide for the payment by any person (whether by allowing a deduction from rent or otherwise) of any rate payable by any other person, and paragraph 1 shall not restrict the right of any person to claim the benefit of any such contract or covenant.

#### Incidence of rates in consequence of Article 20

3.—(1) Where the rates are payable by the owner under Article 20 in respect of any hereditament in the occupation of a tenant under a contract of tenancy, then—



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- (a) if the contract was made before Article 20 came into force, or before any transferred provision corresponding to that Article which was repealed by or under the 1972 Order or by this Order came into force, in relation to the hereditament, the tenant shall repay to the owner all sums paid by the owner during the continuance of the tenancy on account of rates which would, but for that Article, have been payable by the tenant under the contract of tenancy;
- (b) if the contract was made after Article 20 came into force, or after any such transferred provision as aforesaid came into force, in relation to the hereditament, and the owner pays any sum in respect of rates which, under the contract of tenancy as between the owner and the tenant, the tenant is liable to pay, the tenant shall pay to the owner the amount of the rates so paid;

and every sum payable by the tenant to the owner by virtue of the provisions of this sub-paragraph may be recovered, if not paid upon demand, as arrears of rent could be recovered from the tenant by the owner.

(2) Where, under the terms of any contract of tenancy made, after Article 20 comes into force, for the letting of any hereditament to which that Article applies or under the terms of any such contract made after any transferred provision corresponding to that Article which was repealed by or under the 1972 Order or by this Order came into force in relation to the hereditament, the sum made payable under the contract is inclusive as between landlord and tenant of all sums payable for rates, and after the date of the contract the amount of the rates payable in respect of the hereditament is increased or reduced, then—

- (a) the sum so made payable as rent shall be increased or reduced, as the case may be, by the amount of every such increase or reduction in the sum payable by the landlord for rates in respect of the hereditament and attributable to the period during which such rent accrued; and
- (b) where any such rent is made payable for a period or periods of less than one year, the proper proportion of such increase or reduction in rates shall be paid or allowed, as the case may require, on the occasion of each payment of rent; and
- (c) any such increased or reduced rent shall be recoverable in the same manner as the rent reserved by the contract of tenancy; provided that, for the purpose of the summary recovery of possession of any such premises as aforesaid under any transferred provision, the amount of the rent shall be deemed to be the amount computed by deducting the amount of the rates from the total sum payable in respect of rent.

(3) In every contract of tenancy made, after Article 20 comes into force, for the letting of any hereditament to which that Article applies and in every contract of tenancy made after any transferred provision corresponding to that Article which was repealed by or under the 1972 Order or by this Order came into force in relation to the hereditament to which the contract relates, any rent reserved by the contract shall be deemed to be inclusive of rates unless a contrary intention appears from the contract.

(4) Any reference in this paragraph to Article 20 coming into force includes, in relation to hereditaments brought within the application of that Article by virtue of an order under paragraph (5) of that Article, a reference to that order coming into force.

#### Deductions from inclusive rents in respect of rate exemption or relief

4.—(1) Where—

- (a) a change in the law determining the rateable value of hereditaments of any description, or of hereditaments generally, comes into operation so as to alter the rateable value of a hereditament, and

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- (b) the hereditament is occupied by a tenant under a contract of tenancy made before the alteration in the rateable value takes or took effect, by virtue of which—
  - (i) the landlord has undertaken to pay the rates in respect of the hereditament, and
  - (ii) there is payable by the tenant a rent inclusive of a sum in consideration of the payment of those rates by the landlord,

then, if the rateable value is reduced, the landlord shall be liable to pay to the tenant, or allow by way of deduction from his rent, and, if the rateable value is increased, the tenant shall be liable to pay to the landlord, a sum equal to the difference between every amount payable by way of those rates and the amount which would have been so payable at the rate in the pound current for the time being if the rateable value of the hereditament had not been altered.

(2) Any question arising as to the amount to be paid or allowed to a tenant by way of deduction from his rent under this paragraph shall be referred to and determined by the Lands Tribunal.

### Saving for existing rights

5.—(1) Except as expressly provided in this Order, nothing in this Order, and no repeal of any transferred provision effected by or under the 1972 Order or by this Order, shall affect the right of any person to deduct from rent payable by him any sum or any part of a sum paid by him in respect of rates or deducted, on account of any payment of rates, from any rent payable to him, and any such right which existed immediately before the commencement of the 1972 Order shall continue to apply to rates under this Order, as nearly as may be to the same extent and subject to the same incidents as then existed.

(2) Any question arising as to the application of a right such as is mentioned in sub-paragraph (1) in relation to rates under this Order shall be referred to and determined by the Lands Tribunal.

## [<sup>F143</sup>SCHEDULE 8A

### UNOCCUPIED HEREDITAMENTS

**F143** 2004 NI 4

- 1.—(1) This Schedule applies to a hereditament if—
- (a) it falls within a prescribed class;
  - (b) it is included in the valuation list; and
  - (c) it is a specified hereditament within the meaning of Article 39A(3) (hereditaments other than dwelling-houses, etc.).
- (2) A class may be prescribed by reference to such factors as the Department thinks fit.
- (3) Without prejudice to the generality of sub-paragraph (2), a class may be prescribed by reference to one or more of the following factors—
- (a) the physical characteristics of the hereditaments;
  - (b) the fact that hereditaments have previously been unoccupied;
  - (c) the fact that persons entitled to possession of hereditaments fall within prescribed descriptions.

2. The amount which, apart from this paragraph, would be payable on account of a rate by virtue of Article 25A shall be reduced by 50 per cent.

3.—(1) The following general provisions shall have effect with respect to the assessment of persons to, and their liability on account of, a rate in respect of any hereditament for any year by virtue of Article 25A.

(2) A person who is chargeable to rates in respect of a hereditament by virtue of Article 25A for part only of the year shall, subject to the provisions of this Order, be liable to be charged with such part only of the total amount of the rate as bears to that amount the same proportion as the number of days in the part of the year during which he is so chargeable bears to the total number of days in the year.

(3) The liability of a person under sub-paragraph (2) is in addition to any liability of his under Article 19(2) (person in occupation for part only of the year).

(4) A person who is chargeable to rates in respect of a hereditament by virtue of Article 25A for any part of the year may be assessed to the rate in accordance with the provisions of sub-paragraph (2) notwithstanding that any part of the year during which he was so chargeable ended before the rate was made.

(5) A person who is chargeable to rates in respect of a hereditament by virtue of Article 25A at any time after the rate is made may be assessed to and shall in the first instance be liable to pay by virtue of that Article—

- (a) if he was so chargeable at the beginning of the year, the whole of the amount charged in respect of the hereditament; or
- (b) if he became so chargeable subsequently, a proportion of that amount calculated on the basis that he will remain so chargeable until the end of the year;

but shall, if the part of the year during which he is so chargeable ends before the end of the year and he does not thereupon become liable to pay an amount under Article 19 by virtue of his occupation of the hereditament, be entitled to recover from the Department any sums paid by him in excess of the amount properly chargeable against him in accordance with the provisions of sub-paragraph (2), except that—

- (i) no allowance shall be made for a period of less than seven days;
- (ii) a person shall not be entitled to recover any such sum unless he makes an application in writing to the Department within three months after the end of the part of the year during which he is so chargeable;
- (iii) a person shall not be entitled to recover any sum in so far as he has previously recovered it from another person who is an incoming occupier or chargeable under Article 25A.

4. Where the name of any person liable to be rated under Article 25A is not known to the Department, it shall be sufficient to assess him to the rate by the description of “non-occupying ratepayer” in respect of the hereditament (naming it) in respect of which the assessment is made, without further name or description.

5.—(1) Article 31 (reduction of rates on certain hereditaments used for recreation) shall apply to a hereditament in respect of which a person is chargeable to rates under Article 25A if it appears to the Department that Article 31 will apply to the hereditament when it is next in occupation.

(2) Article 31 as it applies by virtue of sub-paragraph (1) shall have effect as if for paragraphs (3) and (4) there were substituted the following paragraphs—

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“(3) If it appears to the Department that the hereditament will when next in occupation be used solely for the purposes of a prescribed recreation, the reduction shall be effected by reducing the normal rate by 65 per cent.

(4) If it appears to the Department that when next in occupation the hereditament will be shown in the valuation list as having part of its net annual value apportioned to a part or parts of the hereditament used solely for the purposes of a prescribed recreation, the reduction shall be effected by computing separately—

- (a) so much of the amount payable as will be referable to the part of the net annual value shown in the valuation list as so apportioned, and
- (b) so much of that amount as will be referable to the remainder of the net annual value,

and by reducing the normal rate, for the purpose of the computation mentioned in sub-paragraph (a), by 65 per cent.”

**6.—(1)** Article 31B (rate rebates for certain hereditaments used by institutions for the disabled) shall apply to a hereditament in respect of which a person is chargeable to rates under Article 25A if it appears to the Department that Article 31B will apply to the hereditament when it is next in occupation.

(2) Article 31B as it applies by virtue of sub-paragraph (1) shall have effect as if—

- (a) in paragraphs (4) and (9) references to the occupier were references to the person chargeable to rates under Article 25A;
- (b) in sub-paragraphs (a) and (b) of paragraph (10) before the word “used” there were inserted the words “ which it appears to the Department will when next in occupation be ”.

**7.—(1)** Article 41 (distinguishment in valuation list of hereditament used for public, charitable or certain other purposes) shall have effect in relation to a hereditament in respect of which a person is chargeable to rates under Article 25A if it appears to the Commissioner or the district valuer that Article 41 will apply to the hereditament when it is next in occupation.

(2) Accordingly Article 41 as it applies by virtue of sub-paragraph (1) shall have effect as if—

- (a) in paragraph (1) for the words “the Commissioner or the district valuer is satisfied that a hereditament is” there were substituted the words “ it appears to the Commissioner or the district valuer that a hereditament in respect of which a person is chargeable to rates under Article 25A will when next in occupation be ”; and
- (b) references in paragraphs (3) to (10) to the use or to the occupation of the hereditament shall be construed as references to the use or to the occupation of the hereditament which it appears to the Commissioner or the district valuer will be the use or occupation of the hereditament when it is next in occupation.

**8.—(1)** In relation to a hereditament in respect of which a person is chargeable to rates under Article 25A, references in Articles 45 to 59 to the occupier shall be construed as references to that person.

(2) If it is not practicable after reasonable enquiry to ascertain the name or address of that person, section 24(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if for paragraph (e) there were substituted—

- “(e) if it is not practicable after reasonable enquiry to ascertain the name or address of a person chargeable to rates under Article 25A of the Rates (Northern Ireland) Order 1977 on whom the document should be served, by addressing the document to him by

the description “Person chargeable to rates under Article 25A of the Rates (Northern Ireland) Order 1977” and by affixing it, or a copy of it, to some conspicuous part of the hereditament in respect of which he is so chargeable.”]

## [<sup>F144</sup>SCHEDULE 8B

### NEW BUILDINGS (COMPLETION DAYS)

F144 2004 NI 4

#### Completion notices

1.—(1) If it appears to the Department that the work remaining to be done on a new building is such that the building can reasonably be expected to be completed within three months, the Department may serve a completion notice on the person entitled to possession of the building.

(2) If it appears to the Department that a new building has been completed the Department may serve a completion notice on the person entitled to possession of the building.

(3) The Department may withdraw a completion notice by serving on the person entitled to possession of the building a subsequent completion notice.

(4) Where an appeal under paragraph 4 has been brought against a completion notice, the power conferred by sub-paragraph (3) shall only be exercisable with the consent in writing of the person entitled to possession of the building to which the notice relates.

(5) The power conferred by sub-paragraph (3) shall cease to be exercisable in relation to a completion notice once a day has been determined under this Schedule as the completion day in relation to the building to which the notice relates.

(6) The Department shall not serve a completion notice if it appears to the Department that the building is, or when next in use will be, used wholly for the purposes of a private dwelling.

2.—(1) A completion notice shall—

- (a) specify the building to which it relates; and
- (b) state the day which the Department proposes as the completion day in relation to the building.

(2) Where at the time a completion notice is served it appears to the Department that the building to which the notice relates is not completed, the Department shall propose as the completion day such day, not later than 3 months from the day on which the notice is served, as the Department considers is a day by which the building can reasonably be expected to be completed.

(3) Where at the time a completion notice is served it appears to the Department that the building to which the notice relates has been completed, the Department shall propose as the completion day the day on which the notice is served.

#### Determination of completion day

3.—(1) If the person on whom a completion notice is served agrees in writing with the Department that a day specified by the agreement shall be the completion day in relation to the building, that day shall be the completion day in relation to it.

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(2) Where such an agreement as is mentioned in sub-paragraph (1) is made, the completion notice relating to the building shall be deemed to have been withdrawn.

4.—(1) A person on whom a completion notice is served may, not later than twenty-eight days from the date of service on him of the notice, appeal to the Commissioner against the notice on the ground that the building to which the notice relates has not been or, as the case may be, cannot reasonably be expected to be completed by the day stated in the notice.

(2) Where a person appeals against a completion notice and the appeal is not abandoned or dismissed, the completion day shall be such day as the Commissioner shall determine.

5. Where a completion notice is not withdrawn and no appeal under paragraph 4 is brought against the notice or any appeal under that paragraph is abandoned or dismissed, the day stated in the notice shall be the completion day in relation to the building.

### Appeals

6.—(1) An appeal under paragraph 4 shall be instituted by a notice of appeal—

- (a) signed by the appellant; and
- (b) stating the reasons for objecting to the completion notice.

(2) The appellant may, at any time before the Commissioner's decision on the appeal has been issued, abandon the appeal by serving a notice in that behalf on the Commissioner.

7.—(1) Without prejudice to Article 53 as it applies by virtue of paragraph 8(1), where an appeal is made to the Commissioner under paragraph 4, the Commissioner shall investigate the subject matter of the appeal and shall review the completion notice.

(2) In the course of his investigation the Commissioner shall afford to every person who appears to him to be concerned therewith an opportunity to comment on the subject matter of the appeal and to furnish oral or other evidence respecting it.

(3) Without prejudice to sub-paragraph (2), the Commissioner may obtain information from such persons and in such manner and make such inquiries as he considers appropriate, and may call for a report from any suitably qualified person.

(4) Where the Commissioner—

- (a) dismisses an appeal; or
- (b) determines a day under paragraph 4(2),

he shall serve notice of the dismissal or, as the case may require, a statement of his reasons for making that determination, on

- (i) the appellant;
- (ii) the Department; and
- (iii) every other person who submitted comments or furnished evidence to the Commissioner in connection with the appeal.

8.—(1) Article 53 (power of Commissioner to transfer appeal to Lands Tribunal) shall, subject to sub-paragraph (2), apply to an appeal made to the Commissioner under paragraph 4 as it applies to an appeal made to him under Article 51.

(2) In Article 53 as it applies by virtue of sub-paragraph (1), paragraph (2)(a) shall have effect as if for the words from “Article 54” to “under that Article” there were substituted the words “paragraph 4 of Schedule 8B”.

9. The appellant may appeal to the Lands Tribunal from a decision of the Commissioner on an appeal under paragraph 4 and the Lands Tribunal may make any decision that the Commissioner might have made.

### Position pending appeal

10.—(1) Where an appeal under paragraph 4 is brought against a completion notice, then in relation to any time when the appeal is pending Article 25A shall apply by virtue of Article 25B(4) as if the day stated in the notice had been determined under this Schedule as the completion day in relation to the building to which the notice relates.

(2) Regulations shall provide for the making of financial adjustments where sub-paragraph (1) applies but the day stated in the completion notice is not actually determined as the completion day in relation to the building to which the notice relates.

(3) Regulations under sub-paragraph (2) may include—

- (a) provision requiring payments or repayments to be made; and
- (b) provision as to the recovery (by deduction or otherwise) of sums due.

(4) For the purpose of deciding, for the purposes of this paragraph, whether an appeal is pending on a particular day, the state of affairs existing immediately before the day ends shall be treated as having existed throughout the day.

### Supplementary

11.—(1) This paragraph applies in the case of a building to which work remains to be done which is customarily done to a building of the type in question after the building has been substantially completed.

(2) It shall be assumed for the purposes of this Schedule that the building has been or can reasonably be expected to be completed at the end of such period beginning with the date of its completion apart from the work as is reasonably required for carrying out the work.

12.—(1) In this Schedule—

- “building” includes part of a building; and
- “completion notice” means a notice under paragraph 1.

(2) References in this Schedule to a new building shall be construed in accordance with Article 25B(6)(b).]

## SCHEDULE 9

Articles 29, 30.

### PAYMENT OF RATES ON DWELLINGS BY INSTALMENTS

1. Subject to paragraph 2, a notice by any person under Article 29(1) may be served—

- (a) at any time within the three months immediately preceding the beginning of a year; or
- (b) in the year in which he first becomes qualified to serve such a notice in respect of the hereditament in question, on any later date in that year, which is not later than the twenty-eighth day after he first became so qualified;

and the effective date of the notice—

- (i) where it is served after 31st December in any year, shall be the first day of the next succeeding year;

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(ii) in any other case, shall be the date of the service of the notice.

2. Where under paragraph 1 a notice under Article 29(1) would fall to be served at a time before the first occasion when rates are levied in respect of the hereditament in question, the notice may be served at any time not later than the fourteenth day after the issue of the first demand for the payment of any sum due on account of such rates, and the effective date of the notice shall not be earlier than the date of the issue of that demand.

3. Where a notice under Article 29(1) in respect of any hereditament is duly served on the Department by a person qualified to serve it, the Department shall—

- (a) in respect of the year in which the effective date of that notice falls (or so much of that year as falls after that date); and
- (b) in respect of each subsequent year until that notice ceases to be in force,

send to that person a statement in writing specifying the number of the instalments by which the rates are to be paid in the year in question, the respective dates on which those instalments are to become due, and the respective amounts of those instalments; so however that, where the notice under Article 29(1) is served after the issue of a demand for the payment of any sum due on account of the rates for the year in which the effective date of that notice falls, the requirements of paragraph (a) shall be deemed to be satisfied if the document containing that demand included the statement required in consequence of the notice.

4. The number of the instalments specified in any statement under paragraph 3—

- (a) if the effective date of the notice under Article 29(1) is after 30th April, shall in the year in which that effective date falls be not less than the number of complete months between that date and the end of that year (including, if that date is the first day of a month, that month) reduced, if that number of months is three, by one or, if that number of months is four or more, by two;
- (b) in any other case shall be not less than ten;

and the date specified in any such statement for the first instalment thereunder shall, not be earlier than ten days after the date when the statement is sent, and the interval between any two of the instalment dates shall not be less than one month.

5. The amounts specified in any statement under paragraph 3 for the instalments payable in the year or part of a year to which the statement relates shall (apart from any rebate under Article 28) be equal, except that the Department may round off the amount of any of the instalments other than either the first or the last to the nearest pound and adjust the amount of the first or, as the case may be, last of those instalments accordingly; but the Department may by a further statement in writing make such adjustments in those amounts as may be necessary in consequence of any change in the amount the occupier is liable to pay by way of rates in respect of that year or part of a year.

6. A notice under Article 29(1) shall cease to be in force—

- (a) if the person by whom it was served withdraws it by a further notice to the Department; or
- (b) if—
  - (i) any instalment is not paid on or before the date when it is due; or
  - (ii) the Department is satisfied that the person aforesaid is no longer qualified to serve a notice under Article 29(1) in respect of the hereditament in question,

and the Department serves notice on that person that, by reason of the default or, as the case may be, his ceasing to be so qualified, the notice under Article 29(1) is being treated as cancelled;



and upon the service of any notice under this paragraph any amount due by way of rates in respect of the hereditament shall be recoverable as if no notice had been served under Article 29(1), without prejudice, however, to the right to serve a fresh notice under Article 29(1) in accordance with paragraph 1( a).

## [<sup>F145</sup>SCHEDULE 9A

### RELIEF FROM RATES FOR GENERAL STORES ETC. IN RURAL SETTLEMENTS]

F145 1998 NI 22

#### *Rural settlement list*

1.—(1) The Department shall compile and maintain, in accordance with paragraph 2, a list (to be called its rural settlement list).

(2) The first rural settlement list shall have effect for a financial year or such lesser period ending on 31st March as the Department may determine and a subsequent list is to have effect for each financial year and shall identify for that year or period or, as the case may be, each financial year any settlements mentioned in sub-paragraph (3).

(3) The settlements referred to in sub-paragraph (2) are those which—

- (a) appear to the Department to have had a population of not more than 3,000 on the last 31st December before the beginning of the financial year in question, and
- (b) in that financial year are wholly or partly within an area designated by the Department by order subject to negative resolution as a rural area for the purposes of this paragraph.

(4) A rural settlement list shall identify the boundaries of each settlement (whether by defining the boundaries or referring to boundaries defined in a map or other document).

(5) An order under sub-paragraph (3)(b) may provide for designating as a rural area any area for the time being identified by any person, in any manner, specified in the order.

(6) Sub-paragraph (1) does not apply to the Department in respect of any financial year for which there are no such settlements as are mentioned in sub-paragraph (3) (and, accordingly, if the Department has compiled a rural settlement list, it shall cease to maintain that list).

#### *Preparation and maintenance of lists*

2.—(1) The Department shall, throughout the period of 3 months preceding the beginning of the first financial year or, as the case may be, period for which a rural settlement list is to have effect, make available for inspection a draft of the list in the form in which the Department proposes that it should have effect for that period.

(2) In each financial year for which a rural settlement list has effect the Department shall (if it appears to the Department that paragraph 1(1) will apply to the Department in respect of the financial year) review the list and consider whether or not, for the next financial year, any alterations are required to the list in order to give effect to paragraph 1(2).

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(3) If following the review the Department considers that any such alterations are required for that year, it shall, throughout the 3 months preceding the beginning of that year, make available for inspection a draft of the list in the form in which it proposes that it should have effect for that year.

(4) Where the Department has compiled a rural settlement list it shall make the list available for inspection in the form in which the list has effect for each financial year to which it relates.

(5) Where the Department is required to make any list or draft available under this paragraph, it shall make the list or draft available at any reasonable hour (and free of charge).

#### *Mandatory relief*

3.—(1) For any period in a financial year where sub-paragraph (2) applies to a hereditament, the rates leviable in respect of the hereditament are to be 50 per cent. of the rates which would have been leviable apart from this paragraph.

(2) This sub-paragraph applies where—

- (a) the hereditament is within a settlement identified in the Department's rural settlement list for the financial year in which the period falls,
- (b) the net annual value of the hereditament shown in the valuation list at the beginning of that financial year is not more than any amount specified by the Department of Finance and Personnel by order subject to negative resolution, and
- (c) during the period concerned—
  - (i) the whole or part of the hereditament is used as a qualifying general store or qualifying post office, or
  - (ii) any conditions specified by the Department of Finance and Personnel by order subject to affirmative resolution are satisfied;

and sub-paragraphs (3) to (5) apply for the purposes of this sub-paragraph.

(3) The whole or part of a hereditament is used as a qualifying general store for any period in a financial year if—

- (a) a trade or business consisting wholly or mainly of the sale by retail of both food for human consumption (excluding confectionery) and general household goods is carried on there, and
- (b) such a trade or business is not carried on in any other hereditament or part of a hereditament, in the settlement concerned.

(4) The whole or part of a hereditament is used as a qualifying post office for any period in a financial year if—

- (a) it is used for the purposes of<sup>F146</sup> a universal service provider (within the meaning of the Postal Services Act 2000) and in connection with the provision of a universal postal service (within the meaning of that Act)], and
- (b) no other hereditament, or part of a hereditament in the settlement concerned is so used.

(5) Where a hereditament or part is used as a qualifying general store or qualifying post office for any period in a financial year, it is not to be treated as ceasing to be so used merely because the condition in sub-paragraph (3)(b) or (4)(b) ceases to be satisfied.

**F146** 2000 c. 26

### *Discretionary relief*

4.—(1) The Department, with the approval of the Department of Finance and Personnel and after consultation with the district council for the district in which the hereditament is situated, may reduce or remit any rate leviable in respect of a hereditament for any period in a financial year in which the condition mentioned in sub-paragraph (2) applies to the hereditament.

(2) The condition is—

- (a) that the hereditament is within a settlement identified in the Department's rural settlement list for the financial year in which the period falls, and
- (b) that the net annual value of the hereditament shown in the valuation list at the beginning of that financial year is not more than any amount specified by the Department of Finance and Personnel by order subject to negative resolution.

(3) Where paragraph 3(2)(c) does not apply, the Department shall not, by virtue of this paragraph, make a reduction or remission unless it is satisfied that—

- (a) the hereditament is used for purposes which are of benefit to the local community, and
- (b) it would be reasonable for the Department to make such a reduction or remission, having regard to the interests of persons liable to pay regional and district rates.

### *Grant of mandatory or discretionary relief*

5. No reduction or remission of the rates leviable in respect of a hereditament under paragraph 3 or 4 shall be granted except on an application made to the Department by the person entitled to the reduction or remission and any such application shall contain such information as the Department may reasonably require.

## [<sup>F147</sup>SCHEDULE 9B

### VALUATION TRIBUNAL

**F147** Sch. 9B inserted (23.11.2006 for certain purposes, otherwise 1.4.2007) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 29(2), **Sch. 1**; S.R. 2006/464, **art. 2(1)(4)**, Sch. 1

### *Introductory*

1.—(1) In this Schedule—

“rules” means rules made under paragraph 7;

“the Tribunal” means the Valuation Tribunal.

(2) Until the commencement of section 5(1) of the Justice (Northern Ireland) Act 2002 (c. 26), references in this Schedule to the First Minister and deputy First Minister acting jointly or to the Office of the First Minister and deputy First Minister shall be construed as references to the Lord Chancellor.

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## *Members*

- 2.—(1) The Tribunal shall consist of the President and the other members of the Tribunal.
- (2) The First Minister and deputy First Minister acting jointly shall appoint—
- (a) a President of the Tribunal;
  - (b) other members of the Tribunal who must include—
    - (i) legal members;
    - (ii) members who have had experience in the valuation of land; and
    - (iii) ordinary members.
- (3) A person may be appointed as the President or as a legal member of the Tribunal only if he is a barrister or solicitor of at least seven years' standing.
- (4) The Lord Chief Justice may designate a legal member of the Tribunal to carry out the functions of the President when he is unable to act or when the office is vacant.

- 3.—(1) Subject to sub-paragraph (3), the members of the Tribunal shall hold and vacate office as such in accordance with the terms of their respective appointments.
- (2) A person holding office as a member of the Tribunal may resign that office by giving notice in writing to the Office of the First Minister and deputy First Minister.
- (3) A person holding office as a member of the Tribunal shall vacate his office on the day on which he attains the age of 70, unless the First Minister and deputy First Minister acting jointly authorise him to continue in office for a period or periods not exceeding one year and not extending beyond the day on which the person attains the age of 75.
- (4) Subject to sub-paragraph (3), a member of the Tribunal who ceases to hold office is eligible for re-appointment.

## *Remuneration etc.*

4. The Office of the First Minister and deputy First Minister may pay to the members of the Tribunal such remuneration and allowances as the Office of the First Minister and deputy First Minister may determine.

## *Sittings*

5. The Tribunal shall sit at such times and in such places as the President may direct in accordance with general arrangements made by the Lord Chancellor.

## *Tribunals*

6. The jurisdiction of the Tribunal may be exercised by a single tribunal or by two or more tribunals if the President so directs.

## *Rules*

- 7.—(1) The Lord Chancellor may make rules—
- (a) regulating the exercise of a right of appeal to the Tribunal;
  - (b) about practice and procedure in relation to proceedings before the Tribunal.
- (2) Nothing in paragraphs 8 to 13 affects the generality of sub-paragraph (1).

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(3) Rules made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

**8.** Rules may include provision—

- (a) determining by which tribunal any appeal is to be determined where the jurisdiction of the Tribunal is being exercised by more than one tribunal;
- (b) providing that the chairman of any such tribunal must be the President or a legal member;
- (c) determining which members of the Tribunal are to hear any appeal;
- (d) enabling functions of the Tribunal specified in the rules to be discharged by such person as may be determined by or under the rules.

**9.** Rules may include provision—

- (a) specifying the procedure to be followed for initiating an appeal (including the time within which an appeal must be brought);
- (b) authorising an appeal to be disposed of with the consent of the parties on the basis of written representations;
- (c) specifying the procedure to be followed before the hearing of an appeal;
- (d) authorising an appeal to be withdrawn in circumstances specified in the rules.

**10.** Rules may include provision that, subject to any other provision of the rules, the Tribunal may regulate its own procedure.

**11.—(1)** Rules may include provision—

- (a) for requiring hearings of appeals to take place in public except in circumstances specified in the rules;
- (b) for parties to the appeal to be represented by such persons as may be determined by or under the rules;
- (c) for authorising hearings of appeals to proceed in the absence of a party or parties to the appeal in circumstances specified in the rules;
- (d) for requiring persons to attend to give evidence and produce documents;
- (e) as to evidence generally (whether written evidence or oral evidence given under oath or affirmation);
- (f) as to the adjournment of hearings.

(2) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of sub-paragraph (1)(d) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

**12.** Rules may include provision—

- (a) that where two or more members of a tribunal are acting the decision of the majority is to prevail or, if the votes are equal, the chairman is to have a casting vote;
- (b) requiring reasons for a decision to be given;
- (c) authorising a decision to be given orally or in writing;
- (d) authorising or requiring an order to be made in consequence of a decision;
- (e) that an order may require a valuation list to be altered;
- (f) enabling the Tribunal to review its decisions, or to vary or revoke an order of the Tribunal, in such circumstances as may be determined in accordance with the rules.

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**13.** Rules may include provision—

- (a) for the registration and proof of decisions and orders of the Tribunal;
- (b) authorising the correction of clerical errors in records of decisions and orders;
- (c) requiring decisions, orders and corrections to be communicated to the parties to appeals.

*Directions*

**14.** The President may, subject to rules, give directions about the practice and procedure of the Tribunal.]

SCHEDULE 10

Articles 37, 44.

HEREDITAMENTS

**1.** Land, as distinct from an estate in land or water.

*Entry 2 rep. by 1998 NI 22*

**3.** Profits à prendre other than<sup>F148</sup> a right of fowling, shooting, taking or killing game or rabbits, or] fishing.

**F148** 1998 NI 22

**4.** Easements.

**5.** Tolls.

**6.** Railways.

**7.** Canals, navigations and rights of navigation.

**8.** Other rights over land<sup>F149</sup> except any right excluded from entry 3].

**F149** 1998 NI 22

SCHEDULE 11

Article 37.

PROPERTIES NOT TO BE TREATED AS HEREDITAMENTS

Entry No.	Property	Supplementary Provisions
1	Agricultural land.	
2	Agricultural buildings.	
3	Livestock or poultry buildings.	
[ F150 3A	<i>A fish farm</i>	<b>1)</b> <i>This entry applies only to land which is used solely for or in connection with fish farming.</i>

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		<p>2) In determining for the purposes of this entry whether land used for or in connection with fish farming is solely so used no account shall be taken of any time during which it is used in any other way, if that time does not amount to a substantial part of the time during which the land is used for or in connection with fish farming.]</p>
[ <sup>F151</sup> 3B]	[ <sup>F151</sup> Salmon fishings or eel fishings]	[ <sup>F151</sup> This entry applies only where the right thereto is regularly exercised by means of a fishing engine of any description, other than a rod and line or hand line, throughout that part of the year during which fishing by means of a fishing engine of that description is permitted by law.]
[ <sup>F152</sup> 3C]	[ <sup>F152</sup> Buildings associated with salmon or eel fishings]	[ <sup>F152</sup> 1) This entry applies only to buildings used solely for or in connection with salmon or eel fishings.  2) In determining for the purpose of this entry whether buildings are used solely for or in connection with salmon or eel fishings no account shall be taken of any time during which it is used in any other way, if that time does not amount to a substantial part of the time during which the buildings are used for or in connection with salmon or eel fishings.]
4	Turf bogs and turf banks used for the exclusive purpose of cutting or saving turf, or making turf mould therefrom, for fuel or manure under an appurtenant right of turbary.	
5	Mines— (a) which have been opened for less than 7 years; or (b) which have been abandoned.	Mines <i>bona fide</i> reopened after they have been <i>bona fide</i> abandoned shall be deemed, for the purposes of this entry, to have been opened.

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6	Property to which <sup>F153</sup> section 221(1) of the Merchant Shipping Act 1995] applies, namely, lighthouses, buoys, beacons and light dues and other rates, fees or payments accruing to or forming part of the General Lighthouse Fund, and the premises and property mentioned in that section.	
F154	F154	F154
...	...	...
F155	F155	F155
...	...	...
9	Sewers and manholes, ventilating shafts, pumping stations, pumps or other accessories belonging to a sewer.	In this entry “sewer” has the same meaning as in the Public Health (Ireland) Act 1878
10	Cemeteries and crematoria.	This entry applies only where— (a) no private profit is directly derived from the cemetery or crematorium; and (b) any income derived from the cemetery or crematorium is used wholly to defray expenses connected with that cemetery or crematorium.
11	<p>1) Any room or other part of a hereditament which has been added thereto or included therein solely for the purpose of affording air-raid protection and which is not occupied or used for any other purpose.</p> <p>2) Any structural feature of, or alterations or improvements to, a hereditament (not being the addition of any such room or other part as mentioned in paragraph (1)) made solely for the purpose of affording air-raid protection.</p> <p>3) Any property which is intended to be occupied and used solely for the purpose of air-raid protection, and which is not occupied or used for any other purpose.</p>	<p>1) Where, solely for the purpose of affording air-raid protection,—</p> <p>(a) there has been added to a hereditament any such room or part as is referred to in paragraph (1) in column 2; or</p> <p>(b) there have been made any such structural alterations or additions or improvements to a hereditament as are referred to in paragraph (2) in column 2; such an addition or improvement shall be disregarded in the valuation of the hereditament.</p> <p>2) Any room or other part of a hereditament such as is referred to in paragraph (1) in column 2, or any property such as is referred to in paragraph (3)</p>



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in column 2, which is or has been occupied or used for any purposes other than that of affording air-raid protection shall not be disregarded.

**3)** This entry shall, in relation to a hereditament forming part of a building, have effect as if any structural alterations or improvements made in the building, or on land appurtenant to the building, for the purpose of providing air-raid shelter (within the meaning of the Civil Defence Act (Northern Ireland) 1939) were structural alterations or improvements to the hereditament, and, in ascertaining under this Order the net annual value of a hereditament, regard shall not be had to any increase in the rent thereof (whether or not made by virtue of the said Act of 1939) which is attributable to the provision of such air-raid shelter for persons living or working in the hereditament.

**4)** In this entry, “purpose of affording air-raid protection” includes instruction and training in connection with air-raid precaution and air-raid protection.

**5)** This entry shall not have effect unless and until the Civil Defence Acts (within the meaning of section 9(1) of the Civil Defence Act (Northern Ireland) 1950) are brought again into operation by regulations under section 1 of that Act.

[<sup>F152</sup>11A]

[<sup>F152</sup>Public parks]

[<sup>F152</sup>**1)** This entry applies to any park, recreation or pleasure ground, open space or public walk—

(a) which has been provided by a district council or 2 or

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more district councils acting jointly or by the Department of the Environment under Article 6 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985; and

(b) is available for free and unrestricted use by members of the public.

2) In determining for the purposes of this entry whether use is unrestricted no account shall be taken of any time during which use is restricted by any temporary closure (at night or otherwise).]

12

Any property excluded from the valuation list by any other statutory provision (including such a provision contained in or made under a local or personal Act or Measure or an Act or Measure confirming a provisional order).

Any such exclusion shall be subject to anything contained in the statutory provision.

<p><b>F150</b> <a href="#">1981 NI 13</a>  <b>F151</b> <a href="#">1994 NI 11</a>  <b>F152</b> <a href="#">1996 NI 25</a>  <b>F153</b> <a href="#">1995 c. 21</a>  <b>F154</b> <a href="#">SR 1997/118</a>  <b>F155</b> <a href="#">1996 NI 2</a></p>
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SCHEDULE 12

Articles 39, 50.

BASIS OF VALUATION

PART I

GENERAL RULE

1. Subject to the provisions of this Schedule, for the purposes of this Order the net annual value of a hereditament shall be the rent for which, one year with another, the hereditament might, in its actual state, be reasonably expected to let from year to year, the probable average annual cost of repairs, insurance and other expenses (if any) necessary to maintain the hereditament in its actual state, and all rates, taxes or public charges (if any), being paid by the tenant.

**2.—(1)** Subject to sub-paragraph (2), in estimating the net annual value of a hereditament for the purposes of any revision of the valuation list, regard shall be had to the net annual values in the valuation list of comparable hereditaments which are in the same state and circumstances as the hereditament whose net annual value is being revised.

(2) Sub-paragraph (1) shall not apply to any hereditament for whose valuation special provision is made by or under Part IV or any of the succeeding Parts of this Schedule, or to any hereditament whose net annual value falls to be ascertained by reference to the profits of the undertaking or business carried on therein.

**3.—(1)** In estimating the net annual value of a hereditament, regard may be had to—

- (a) the capital value of that hereditament; and
- (b) the capital values of other hereditaments of the same general character for which rents are known or have been estimated for the purposes of paragraph 1.

(2) In this paragraph “capital value” in relation to a hereditament means the price which a willing seller would reasonably expect to realise for the fee simple absolute in possession in the hereditament, in its actual state and with vacant possession, at the time by reference to which the estimate of net annual value falls to be made, on the assumption that there was then an adequate supply of similar properties available to meet a reasonable demand.

**[<sup>F156</sup>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.]

**F156** 2004 NI 4

**4.** Where the net annual value of a hereditament is fixed, wholly or partly, having regard to the volume of trade carried on at the hereditament or the quantity of minerals or other substances extracted from it, the volume or quantity to be taken into account for the purposes of a valuation shall be the probable volume or quantity for the first year with respect to which that valuation will be in force.

**[<sup>F157</sup>5.** Regulations may provide that in applying paragraphs 1 to 4 in relation to a hereditament of a prescribed description, prescribed assumptions (as to the hereditament or otherwise) are to be made.]

**F157** 1996 NI 25

**6.** Regulations may—

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(a) provide that in arriving at a net annual value under paragraph 1 prescribed principles are to be applied; and

(b) make provision for the preservation of such principles, privileges and provisions for the making of valuations on exceptional principles as apply for the purposes of this Order.

## [<sup>F158</sup>PART IA SPORTING RIGHTS]

F158 1998 NI 22

1.—(1) This paragraph applies where—

(a) a hereditament consists wholly or in part of land on which a right of sporting is exercisable; and

(b) the right is not severed from the occupation of the land.

(2) For the purposes of determining the net annual value of the hereditament, the rent at which the hereditament might reasonably be expected to let shall be estimated as if the right of sporting did not exist.

(3) In this paragraph “right of sporting” means a right of fowling, shooting, taking or killing game or rabbits, or fishing.

## PART II FARMHOUSES

The net annual value of a house occupied in connection with agricultural land [<sup>F159</sup>or a fish farm] and used as the dwelling of a person—

(a) whose primary occupation is the carrying on or directing of agricultural [<sup>F159</sup>or, as the case may be, fish farming] operations on that land; or

(b) who is employed in agricultural [<sup>F159</sup>or, as the case may be, fish farming] operations on that land in the service of the occupier thereof and is entitled, whether as tenant or otherwise, so to use the house only while so employed,

shall, so long as the house is so occupied and used, be estimated by reference to the rent at which the house might reasonably be expected to let from year to year if it could not be occupied and used otherwise than as aforesaid.

F159 1981 NI 13

## PART III

### HEREDITAMENTS CONTAINING PLANT OR MACHINERY

#### *General exclusion of plant and machinery from valuation*

1. Subject to the provisions of this Part, in estimating the net annual value of any hereditament no account shall be taken of the value of any plant or machinery in or on the hereditament.

#### *Kinds of plant and machinery to be included in valuation*

2. Where there is in or on a hereditament any plant or machinery which is of a description falling within a class mentioned in paragraph 3, and which also, where kinds of plant and machinery are there listed in relation to plant or machinery of such a description, is of such a kind, the plant or machinery shall, subject to any order under paragraph 4, be deemed to be part of the hereditament.

#### *<sup>F160</sup>Classes of plant and machinery*

**F160** SR 1997/84

<sup>F161</sup>3. The classes of plant and machinery referred to in paragraph 2 are—

**F161** SR2003/31

#### CLASS 1

Plant and machinery (other than excepted plant and machinery) specified in Table 1 (together with any of the appliances and structures accessory to such plant or machinery and specified in the List of Accessories) which is used or intended to be used mainly or exclusively in connection with the generation, storage, primary transformation or main transmission of power in or on the hereditament.

In this Class:

(a) “transformer” means any plant which changes the pressure or frequency or form of current of electrical power to another pressure or frequency or form of current, except any such plant which forms an integral part of an item of plant and machinery in or on the hereditament for manufacturing operations or trade processes;

(b) “primary transformation of power” means any transformation of electrical power by means of a transformer at any point in the main transmission of power; and

(c) “main transmission of power” means all transmission of power from the generating plant or point of supply in or on the hereditament up to and including—

(i) in the case of electrical power, the first distribution board;

(ii) in the case of transmission by shafting or wheels, any shaft or wheel driven directly from the prime mover;

(iii) in the case of hydraulic or pneumatic power, the point where the main supply ceases, excluding any branch service piping connected with such main supply;

(iv) in a case where, without otherwise passing beyond the limits of the main transmission of power, power is transmitted to another hereditament, the point at which the power passes from the hereditament; and

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(d) “excepted plant and machinery” means plant and machinery on a hereditament used or intended to be used for the generation, storage, transformation or transmission of power, where either—

- (i) the power is mainly or exclusively for distribution for sale to consumers; or
- (ii) (aa) the plant and machinery is that of a combined heat and power station which is fully exempt or partly exempt within the meaning of paragraph 148(2) or, as the case may be, 148(3) of Schedule 6 to the Finance Act 2000, and
  - (bb) the plant and machinery is within paragraph (b), (c), (d) or (k) of Table 1, and
  - (cc) the power is at least in part electrical power.

TABLE 1

(a) Steam boilers (including their settings) and chimneys, flues and dust or grit catchers used in connection with such boilers; furnaces; mechanical stokers; injectors, jets, burners and nozzles; super heaters; feed water pumps and heaters; economisers; accumulators; deaerators; blow-off tanks; gas retorts and charging apparatus, producers and generators.

(b) Steam engines; steam turbines; gas turbines; internal combustion engines; hot air engines; barring engines.

(c) Continuous and alternating current dynamos; couplings to engines and turbines; field exciter gear; three wire or phase balancers.

(d) Storage batteries, with stands and insulators, regulating switches, boosters and connections forming part thereof.

(e) Static transformers; auto transformers; motor generators; motor convertors; rotary convertors; transverters; rectifiers; phase converters; frequency changers.

(f) Cables and conductors; switchboards, distribution boards; control panels and all switchgear and other apparatus thereon.

(g) Water wheels; water turbines; rams; governor engines; penstocks; spillways; surge tanks; conduits; flumes; sluice gates.

(h) Pumping engines for hydraulic power; hydraulic engines; hydraulic intensifiers; hydraulic accumulators.

(i) Air compressors; compressed air engines.

(j) Windmills.

(k) Shafting, couplings, clutches, worm gear, pulleys and wheels.

(l) Steam or other motors which are used or intended to be used mainly or exclusively for driving any of the plant and machinery falling within this Class.

(m) Aero generators; wind turbines.

(n) Solar cells; solar panels.

CLASS 2

Plant and machinery specified in Table 2 (together with the appliances and structures accessory to such plant or machinery and specified in paragraph 2 of the List of Accessories) which is used or intended to be used in connection with services to the hereditament or part of it, other than any such plant or machinery which is in or on the hereditament and is used or intended to be used in connection with services mainly or exclusively as part of manufacturing operations or trade processes.

In this Class “services” means heating, cooling, ventilating, lighting, draining or supplying of water and protection from trespass, criminal damage, theft, fire or other hazard.

TABLE 2

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(a) GENERAL

Any of the plant and machinery specified in Table 1 and any motors which are used or intended to be used mainly or exclusively for driving any of the plant and machinery falling within paragraphs (b) to (f) of this Table.

Any of the plant and machinery specified in Table 1 and any motors which are used or intended to be used mainly or exclusively for driving any of the plant and machinery falling within paragraphs (b) to (f) of this Table.

(b) HEATING, COOLING AND VENTILATING

(i) Water heaters.

(ii) Headers and manifolds; steam pressure reducing valves, calorifiers; radiators; heating panels; hot air furnaces with distributing ducts and gratings.

(iii) Gas pressure regulators; gas burners; gas heaters and radiators and the flues and chimneys used in connection therewith.

(iv) Plug sockets and other outlets; electric heaters.

(v) Refrigerating machines.

(vi) Water screens; water jets.

(vii) Fans and blowers.

(viii) Air intakes, channels, ducts, gratings, louvres and outlets.

(ix) Plant for filtering, washing, drying, warming, cooling, humidifying, deodorising and perfuming, and for the chemical and bacteriological treatment of air.

(x) Pipes and coils when used for causing or assisting air movement.

(c) LIGHTING

(i) Gas pressure regulators; gas burners.

(ii) Plug sockets and other outlets; electric lamps.

(d) DRAINING

Pumps and other lifting apparatus; tanks; screens; sewage treatment plant and machinery.

(e) SUPPLYING WATER

Pumps and other water lifting apparatus; sluice gates; tanks, filters and other plant and machinery for the storage and treatment of water.

(f) PROTECTION FROM HAZARDS

Tanks; lagoons; reservoirs; pumps, hydrants and monitors; fire alarm systems; fire and explosion protection and suppression systems; bunds; blast protection walls; berms; lightning conductors; security and alarm systems; ditches; moats; mounds; barriers; doors; gates; turnstiles; shutters; grilles; fences.

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LIST OF ACCESSORIES

1. Any of the following plant and machinery which is used or intended to be used mainly or exclusively in connection with the handling, preparing or storing of fuel required for the generation or storage of power in or on the hereditament—

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cranes with their grabs or buckets; truck or wagon tippers; elevating and conveying systems, including power winches, drags, elevators, hoists, conveyors, transporters, travellers, cranes, buckets forming a connected part of any such system, and any weighing machines used in connection therewith; magnetic separators; driers; breakers; pulverisers; bunkers; gas holders; tanks.

2. Any of the following plant and machinery which is used or intended to be used mainly or exclusively as part of, or in connection with, or as an accessory to any of the plant and machinery falling within Class 1 or Class 2—

- (i) foundations, settings, gantries, supports, platforms and stagings for plant and machinery;
- (ii) steam condensing plant, compressors, exhausters, storage cylinders and vessels, fans, pumps and ejectors; ash handling apparatus;
- (iii) travellers and cranes;
- (iv) oiling systems; earthing systems; cooling systems;
- (v) pipes, ducts, valves, traps, separators, filters, coolers, screens, purifying and other treatment apparatus, evaporators, tanks, exhaust boxes and silencers, washers, scrubbers, condensers, air heaters and air saturators;
- (vi) shafting supports, belts, ropes and chains;
- (vii) cables, conductors, wires, pipes, tubes, conduits, casings, poles, supports, insulators, joint boxes and end boxes;
- (viii) instruments and apparatus attached to the plant and machinery, including computers, meters, gauges, measuring and recording instruments, automatic or programmed controls, temperature indicators, alarms and relays.

### CLASS 3

The following items—

(a) railway and tramway lines and tracks (other than tracks used exclusively for the transmission of power), and relevant equipment occupied together with such lines and tracks;

In this paragraph “relevant equipment” means—

- (i) tracks supports and foundations;
  - (ii) sleepers, settings and fittings;
  - (iii) buffers, cross-overs and points;
  - (iv) power wire supports and power wire gantries;
  - (v) signal gantries; and
  - (vi) barriers gates and crossings.
- (b) lifts, elevators, hoists, escalators and travelators;
- (c) cables, wires and conductors (or any system of such items)—
- (i) situated in or on a hereditament used or intended to be used in connection with the transmission, distribution or supply of electricity, and
  - (ii) used or intended to be used in connection with such transmission, distribution or supply, other than such items or parts of such items which are, or are comprised in equipment which is used or intended to be used mainly or exclusively for switching or transforming electricity;
- (d) poles, posts, pylons, towers, pipes, ducts, conduits, meters, and any associated supports and foundations, used or intended to be used in connection with any of the items included in paragraph (c);



(e) cables, fibres, wires and conductors, or any system of such items, or any part of such items or such system, used or intended to be used in connection with the transmission of communications signals, and which are comprised in the equipment of and are situated within premises;

In this paragraph—

“premises” means any hereditament which is used, or intended to be used, mainly or exclusively for the processing or the transmission of communications signals excluding any part of such a hereditament within which there is equipment used mainly for the processing of communication signals;

“processing of communications signals” means the conversion of one form of communications signal to another form or the routing of communications signals by switching; and

“equipment used mainly for the processing of communications signals” includes:

— that part of any associated cable, fibre, wire or conductor which extends from the point of conversion or switching to the first distribution or termination frame or junction; and

— that part of any associated cable, fibre, wire or conductor which extends from the last distribution or termination frame or junction to the point of conversion or switching;

(f) poles, posts, towers, masts, mast radiators, pipes, ducts and conduits, and any associated supports and foundations, used or intended to be used in connection with any of the items included within paragraph (e);

(g) a pipe-line, that is to say, a pipe or system of pipes and associated fixed accessories and equipment for the conveyance of any thing, not being—

(i) a drain or sewer; or

(ii) a pipe-line which forms part of the equipment of, and is wholly situated within, relevant premises;

together with any relevant equipment occupied with the pipe-line; and where a pipe-line forms part of the equipment of, and is situated partly within and partly outside, relevant premises, excluding—

(iii) in the case of a pipe-line for the conveyance of any thing to the premises, so much of the pipe-line as extends from the first control valve on the premises; and

(iv) in the case of a pipe-line for the conveyance of any thing away from the premises, so much of the pipe-line as extends up to the last control valve on the premises;

but not excluding so much of the pipe-line as comprises the first or, as the case may be, last, control valve.

In this paragraph—

“relevant equipment” means—

(i) foundations, supports, settings, chambers, manholes, pipe gantries, pipe bridges, conduits, pits and ducts;

(ii) valves and flow regulators;

(iii) meters, pumps and air compressors (including the motors comprised in any such equipment), and

(iv) apparatus for affording cathodic protection to a pipe or system of pipes;

“relevant premises” means a factory or petroleum storage depot, a mine, quarry or mineral field or a natural gas storage or processing facility or gas holder site and for this purpose—

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“factory” has the meaning assigned to it by section 175 of the Factories Act (Northern Ireland) 1965;

“mine” has the meaning assigned to it by section 156 of the Mines Act (Northern Ireland) 1969 and includes anything which by virtue of that section is deemed to form part of a mine;

“quarry” has the meaning assigned to it by Article 2 of the Quarries (Northern Ireland) Order 1983 and includes anything which by virtue of that Article is deemed to form part of a quarry;

“mineral field” means an area comprising an excavation being a well or bore hole or a well and bore hole combined, or a system of such excavations, used for the purpose of pumping or raising brine or oil or extracting natural or landfill gas, and so much of the surface (including buildings, structures and works thereon) surrounding or adjacent to the excavation or system as is occupied, together with the excavation or system, for the purpose of the working of the excavation or system;

a “natural gas storage or processing facility” includes premises used or intended to be used mainly or exclusively for the processing, storage or changing the pressure of natural gas;

“petroleum storage depot” means premises used primarily for the storage of petroleum or petroleum products (including chemicals derived from petroleum) or of materials used in the manufacture of petroleum products (including chemicals derived from petroleum).

(h) Lock and dock gates and caissons.

#### CLASS 4

The items specified in Tables 3 and 4, except—

- (a) any such item which is not, and is not in the nature of, a building or structure;
- (b) any part of any such item which does not form an integral part of such item as a building or structure or as being in the nature of a building or structure;
- (c) so much of any refractory or other lining forming part of any plant or machinery as is customarily renewed by reason of normal use at intervals of less than 50 weeks;
- (d) any item in Table 4 the total cubic capacity of which (measured externally and excluding foundations, settings, supports and anything which is not an integral part of the item) does not exceed 400 cubic metres and which is readily capable of being moved from one site and re-erected in its original state on another without the substantial demolition of any surrounding structure.

#### TABLE 3

Blast furnaces.

Bridges, tunnels, tunnel linings, tunnel supports and viaducts.

Bunds.

Chimneys and flues.

Coking ovens.

Cooling ponds.

Dams.

Fixed cranes.

Floating pontoons, with any bridges or gangways not of a temporary nature used in connection with such pontoons.

Flumes, conduits and ducts.

Foundations, settings, fixed gantries, supports, walkways, stairways, handrails, catwalks, stages, staithes and platforms.

Headgear for mines, quarries and pits; wells.

Masts (including guy ropes) and towers for radar or communications signals.

Pits, beds and bays.

Radio telescopes.

Shiplifts and building berths.

Tipplers.

Transversers and turntables.

Turbines and generators.

Valve towers.

Well casings and liners

TABLE 4

Accelerators

Acid concentrators.

Bins and hoppers.

Boilers.

Bunkers.

Burners, converters, furnaces, kilns, stoves and ovens.

Chambers and vessels.

Condensers and scrubbers.

Coolers, chillers and quenchers.

Cupolas.

Cyclones.

Economisers, heat exchangers, recuperators, regenerators and superheaters.

Evaporators.

Filters and separators.

Gas producers, generators, purifiers, cleansers and holders.

Hydraulic accumulators.

Precipitators.

Reactors and reactor pressure vessels.

Refuse destructor and incinerators.

Reservoirs.

Retorts.

Silos.

Stills.

Tanks.

Towers and columns.

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Vats.

Washeries for coal.

Wind tunnels.

*Power to modify classes of plant and machinery*

4. The Department may by order modify any provision of <sup>F162</sup> this Part].

**F162** 1996 NI 25

*Information about plant and machinery included in valuation*

5. The district valuer shall, on being so required in writing by the occupier of <sup>F163</sup>, or person chargeable to rates under Article 25A in respect of,] any hereditament furnish to him particulars in writing showing what machinery or plant, or whether any particular machinery or plant, has been treated in pursuance of paragraph 2 as forming part of the hereditament.

**F163** 2004 NI 4

*Para. 6 rep. by 1996 NI 25*

<sup>F164</sup>PART IV

RAILWAYS

**F164** Sch. 12 Pt. IV (paras. 1-5) repealed (prosp.) by Rates (Amendment) Act (Northern Ireland) 2009 (c. 8), ss. 8(3)(e), 18, 19(1), Sch. 2

1. Paragraphs 2 to 4 apply to railway hereditaments, but do not apply to any hereditament occupied by a railway company which is not a railway hereditament.

2.—(1) Subject to the provisions of this Part, every railway hereditament shall be entered in a new valuation list at the net annual value, and according to the other particulars, appearing in the last preceding valuation list.

(2) In making a valuation of a railway hereditament for the purposes of a new valuation list, the Commissioner or the district valuer may make such changes in the net annual value or other particulars as may be necessary in order to complete any revision of the valuation list arising from the extension or diminution of the railway hereditament.

3. Where any hereditament is used partly for the purposes of a railway and partly for other purposes, the net annual value of the part used for those other purposes shall be estimated on the same basis as the net annual value of a hereditament which is not a railway hereditament.

4. The net annual value of every railway hereditament shall be ascertained in accordance with the following provisions—

- (a) in the case of a running-line hereditament, the net annual value shall be the net annual value which, if the hereditament had not been adopted for use as a running-line hereditament, would have been placed thereon at 1st April 1932;
  - (b) in the case of a non-running-line hereditament, the net annual value shall be 33 $\frac{1}{3}$  per cent. of the net annual value which would have been placed thereon if valued at 3rd August 1914 regard being had to the effective user and other conditions obtaining at the time of valuation.
5. The Department may by order—
- (a) provide that this Part is to cease to apply to the hereditaments mentioned in paragraph 1;
  - (b) specify the kinds of property to which this Part is to apply; and
  - (c) [<sup>F165</sup>determine, or] make provision for determining, by such method as may be specified in the order, the net annual value of any hereditament consisting of such property<sup>[F165]</sup> and
  - <sup>[F165]</sup>(d) make provision with respect to the apportionment of the aggregate amount of the net annual value determined under the order among the districts.]

F165 1996 NI 25

## PART V

### LAND USED FOR EXHIBITING ADVERTISEMENTS

1. Where a right to use land for the purpose of exhibiting advertisements is a separate hereditament from the land, in estimating the net annual value of the land account shall not be taken of any value or, as the case may be, of any increased value arising from the use of the land for the purpose of exhibiting advertisements in accordance with that right.

2. Where any land is used temporarily or permanently for the exhibition of advertisements or for the erection of any structure used for the exhibition of advertisements and the land—

- (a) is not so used under a right which is a separate hereditament from the land; and
- (b) is not occupied for any other purpose;

the net annual value of the land shall be estimated by reference to the value of that use of the land<sup>[F166]</sup> unless but for that use it would be rateable under Article 25A].

F166 2004 NI 4

3. Where any land is used temporarily or permanently—

- (a) for the exhibition of advertisements; or
- (b) for the erection thereon or attachment thereto of any structure used for the exhibition of advertisements;

and the land—

- (i) is not so used under a right which is a separate hereditament from the land; and
- (ii) [<sup>F167</sup>either] is occupied for any other purpose and rateable in respect thereof<sup>[F167]</sup> or is not so occupied and but for that use would be rateable under Article 25A];

the net annual value of the hereditament comprised of or including the land shall be so estimated as to include the increased value arising from that use.

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**F167** 2004 NI 4

4. In this Part “structure”, without prejudice to the generality of its meaning, includes a hoarding, frame, post or wall.

*Part VI rep. by SR 1997/118*

*Parts VII, VIII rep. by 1996 NI 2*

## PART IX

### MINES AND QUARRIES

1. This Part applies to any hereditament which consists of or includes a mine (which for the purposes of this Part includes a well or bore-hole) or a quarry.

2. The net annual value of a hereditament to which this Part applies shall be its value as ascertained under Part I, paragraph 1, reduced by one half of the part of the rent estimated under that paragraph which is attributable to the occupation of land for the purpose of the following operations, namely, the winning and working, grading, washing, grinding and crushing of minerals.

3. The Department may by order—

- (a) provide that paragraph 2 is to cease to have effect;
- (b) make provision for determining, by such method as may be specified in the order, the net annual value of any hereditament to which this Part applies.

## <sup>F168</sup>PART X

### DOCKS

**F168** Sch. 12 Pt. X (paras. 1-8) repealed (prosp.) by Rates (Amendment) Act (Northern Ireland) 2009 (c. 8), ss. 8(3)(e), 18, 19(1), Sch. 2

1. Subject to paragraphs 2 and 3, this Part applies to any hereditament occupied by a dock authority for the purpose of carrying on its dock undertaking under the authority conferred by or under any statutory provision .

[<sup>F169</sup>2.—(1) This Part shall not apply—

- (a) where the relevant income of the dock undertaking was not more than £1,000,000—
  - (i) in any accounting period of twelve months ending during the year ending on 31st March 2001, or, if there is none;
  - (ii) if there is an accounting period of any other length which ends in that year, in the period of twelve months which ends with the last day of the last such accounting period, or, if there is none;
  - (iii) in the twelve months ending with 31st March 2001; or
- (b) where the persons carrying on the dock undertaking use the dock exclusively or mainly for the purpose of bringing or receiving goods—
  - (i) manufactured or produced by them; or

- (ii) to be used by them for the manufacture or production of goods or electricity; or
- (iii) to be sold by them; or
- (iv) manufactured or produced by an associated body, and to be sold by that body.

(2) For the purposes of sub-paragraph (1)(b), a body shall be treated as the associated body of any persons if—

- (i) it is a body corporate in relation to which those persons directly or indirectly own or control not less than 51 per cent. of its issued share capital; or
- (ii) it is a body corporate in relation to which those persons and any other associated body or bodies of theirs directly or indirectly own or control not less than 51 per cent. of its issued share capital.]

**F169** SR 2003/129

3. Other than for the purposes of the calculation of relevant income or relevant expenditure, this Part does not apply to a hereditament occupied by the persons carrying on a dock undertaking which does not consist exclusively of operational land.

4. In this Part—

“accounting period” in relation to an undertaking, means the period by reference to which the accounts of the undertaking are compiled;

“adjusted balance” in relation to an undertaking and a period, means 92.5 per cent. of the adjusted income of the undertaking for the period less 100 per cent. of its adjusted expenditure for the period;

“adjusted expenditure” in relation to an undertaking and a period, means the amount of relevant expenditure of the undertaking for the period multiplied by P/Y

and “adjusted income” in relation to an undertaking and a period means the amount of relevant income of the undertaking for that period multiplied by P/Y where—

- (a) P is the retail prices index for September 2000, and
- (b) Y is the retail prices index for the September falling during the period in question, unless the base month for the index for that September differs from the base month for the index for September 2000, in which case, Y is the figure which would have been the index for the September falling during the period if the base month for the index had been the same in both cases;

“relevant balance” in relation to an undertaking and a period, means 92.5 per cent. of the relevant income of that undertaking for the period, less 100 per cent. of its relevant expenditure for the period;

“relevant expenditure” in relation to an undertaking and a period, means all expenditure included, or falling to be included, in the revenue or profit and loss account of the undertaking for the period, whether derived from the operations carried on under the statutory provision by which the dock is authorised or otherwise, other than—

- (a) expenditure in respect of pilotage;
- (b) expenditure—
  - (i) in relation to investments required to be shown in the accounts of the undertaking (other than expenditure in relation to investments in subsidiary companies);
  - (ii) consisting of, or relating to, interest payable in respect of borrowing;

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- (iii) consisting of payments for, or in connection with, the management of property which is let out and which is, or forms part of, a separate hereditament;
- (c) expenditure incurred in respect of the disposal of land;
- (d) amounts written off in respect of depreciation;

“relevant income” in relation to an undertaking and a period means all income by way of revenue included, or falling to be included, in the revenue or profit and loss account of the undertaking for the period, whether derived from the operations carried on under the statutory provision by which the dock is authorised or otherwise, but excluding—

- (a) income in respect of pilotage;
- (b) income from—
  - (i) investments required to be shown in the accounts of the undertaking (other than investments in subsidiary companies);
  - (ii) loans or deposits;
  - (iii) rent or other payments receivable in consideration of the grant of permission for occupation or use of any property of the undertaking, or rights over such property, which is, or forms part of, a separate hereditament; and
- (c) any sum receivable in respect of the disposal of land;

“relevant preceding year” means the year ending immediately before the year in question;

“retail prices index” means the general index of retail prices (for all items) published by the Office for National Statistics; and if that index is not published for a month for which it is relevant for the purposes of this Part, this Part shall be taken to refer to any substituted index or index figures published by that Office;

“subsidiary” has the meaning given by Article 4 of the Companies (Northern Ireland) Order 1986.

**5.—(1)** For any year the net annual value of a hereditament to which this Part applies—

- (a) where the dock undertaking is wholly comprised in one hereditament, shall be the amount determined for that year in accordance with paragraph 6;
- (b) where the dock undertaking extends to two or more hereditaments, shall be the portion of the amount determined for that year in accordance with paragraph 6 allocated to the hereditament under paragraph 7.

(2) Where (apart from this sub-paragraph) any net annual value determined under this Part would include a fraction of a pound—

- (a) if the fraction would exceed 50 pence it shall be made up to one pound, and
- (b) if the fraction would be 50 pence or less it shall be ignored.

**6.—(1)** Subject to sub-paragraphs (3) and (4), the amount determined in accordance with this paragraph for the year ending on 31st March 2004 shall be an amount equal to 27.5 per cent. of the relevant balance of the undertaking for—

- (a) an accounting period of 12 months ending during the year ending with 31st March 2001, or, if there is none;
- (b) if there is an accounting period of any other length which ends in that year, the period of twelve months which ends with the last day of the last such accounting period, or, if there is none;
- (c) the twelve months ending on 31st March 2001.



(2) Subject to sub-paragraphs (3) to (5), the amount determined in accordance with this paragraph for any subsequent year shall be an amount equal to 27.5 per cent. of the adjusted balance of the undertaking for—

- (a) an accounting period of twelve months ending during the relevant preceding year, or, if there is none;
- (b) if there is an accounting period of any other length which ends in the relevant preceding year, the period of twelve months which ends with the last day of the last such accounting period, or, if there is none;
- (c) the relevant preceding year.

(3) Where, in relation to a year and an undertaking, the amount equal to 27.5 per cent. of X is greater than 13 per cent. of Z, sub-paragraph (1) or, as the case may be, sub-paragraph (2) shall not apply and the amount determined in accordance with this paragraph for that year shall, subject to sub-paragraph (5), be equal to 13 per cent. of Z.

(4) Where, in relation to a year and an undertaking, the amount equal to 27.5 per cent. of X is less than 5 per cent. of Z, sub-paragraph (1) or, as the case may be, sub-paragraph (2) shall not apply and the amount determined in accordance with this paragraph for that year shall, subject to sub-paragraph (5), be equal to 5 per cent. of Z.

(5) Where, in relation to a year ending on or after 31st March 2005 and an undertaking, the amount determined under sub-paragraph (2), or, as the case may be, sub-paragraph (3) or (4), would differ from the amount determined in accordance with this paragraph for the relevant preceding year by no more than 20 per cent. of that amount, the sub-paragraph in question shall not apply and the amount determined in accordance with this paragraph for that year shall be the same as the amount determined for the relevant preceding year.

(6) For the purposes of sub-paragraphs (3) and (4)—

- (a) X for the year ending on 31st March 2004 is the relevant balance and for subsequent years is the adjusted balance;
- (b) Z for the year ending on 31st March 2004 is the relevant income and for subsequent years is the adjusted income;
- (c) X and Z shall be computed for the year ending on 31st March 2004 for the period described in sub-paragraph (1)(a) or, if there is no such period, for the period described in sub-paragraph (1)(b) or, if there is no such period, for the period described in sub-paragraph (1)(c);
- (d) X and Z shall be computed for subsequent years for the period described in sub-paragraph (2)(a) or, if there is no such period, for the period described in sub-paragraph (2)(b) or, if there is no such period, for the period described in sub-paragraph (2)(c).

7. Where the dock undertaking extends to two or more hereditaments, the amount determined in accordance with paragraph 6 for any year shall be apportioned among the hereditaments in such manner as may be agreed by the Commissioner with the dock authority and the district council or, in default of agreement, determined by the Department.

8. The Department may by order modify any of the provisions of paragraphs 2 to 7, or may, in substitution for those provisions, make provision for determining, by such method as may be specified in the order, the net annual value of any hereditament to which this Part applies.

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## PART XI

### CANALS

1. This Part applies to any hereditament consisting of property occupied for purposes of a canal undertaking which is of a kind specified in an order made under paragraph 2.

2. The Department may by order—

- (a) specify the kinds of property to which this Part is to apply; and
- (b) make provision for determining, by such method as may be specified in the order, the net annual value of any hereditament consisting of such property.

*Part XII rep. by 1984 c. 12*

## [<sup>F170</sup>PART XIII

### CARAVAN SITES

**F170** 1982 NI 2

1.—(1) This Part applies to caravan sites having an area of not less than 335 square metres.

(2) In this Order—

- (a) “caravan” has the meaning assigned to it by section 25(1) of the Caravans Act (Northern Ireland) 1963;
- (b) “caravan site” means any land in respect of which a site licence is required under that Act, or would be so required if paragraphs 4 and 11 of the Schedule to that Act (exemption of certain land occupied and supervised by organisations concerned with recreational activities and of land occupied by district councils) were omitted;
- (c) a caravan pitch is a “pitch for a leisure caravan” if in accordance with any licence or planning permission regulating the use of the caravan site a caravan stationed on the pitch is not allowed to be used for human habitation throughout the year;
- (d) “site operator” means the person who is for the purposes of that Act the occupier of the caravan site.]

2.—(1) Where in a caravan site pitches for leisure caravans are separately occupied by persons other than the site operator so that a pitch so occupied is a separate hereditament, the district valuer may, notwithstanding anything contained in Article 38(2), if he thinks it proper to do so having regard to the circumstances of the case, value all or any of those pitches as a single hereditament together with so much, if any, of the site as is in the occupation of the site operator.

(2) Where any area of a caravan site is valued as a single hereditament under sub-paragraph (1), an application for there to be omitted from the hereditament and entered separately in the valuation list a caravan pitch occupied by a person other than the site operator may be made by that person if the pitch would fall to be separately entered in the list but for that sub-paragraph; and Article 49 shall apply to such an application.

(3) Any caravan pitch which is separately occupied by a person other than the site operator but is included in the hereditament by virtue of sub-paragraph (1) shall be treated as used for the purposes of a private dwelling throughout the year, notwithstanding that it is so used during part only of the year.

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(4) For the purposes of this Part a caravan pitch (and any area comprising it) shall be taken as including the caravan for the time being on the pitch if, but only if, apart from this paragraph, the caravan would be included as part of a hereditament.

(5) Where any area of a caravan site is valued as a single hereditament under sub-paragraph (1), that area shall, for the purposes of this Order, be deemed to be a single hereditament in the occupation of the site operator and shall be so treated.

**3.—(1)** Where an alteration is made in the valuation list in consequence of this Part, the district valuer shall serve certificates of the alteration on the persons mentioned in Article 56(8) stating—

- (a) how many caravans occupied by persons other than the site operator are included in the hereditament under this Part, and
- (b) how much of the net annual value is attributed to those caravans, together with their pitches.

(2) After receiving a certificate of the alteration under sub-paragraph (1) the site operator shall display a notice on the site from the beginning of April to the end of October in every year so long as the site or part of it is treated as a single hereditament under this Part (but starting with the April following the receipt of the certificate if it is received in October) and shall state in the notice so displayed—

- (a) the part of the site included in the hereditament to which the certificate relates (or that the whole of the site is so included);
- (b) the facts stated in the certificate under sub-paragraph (1);
- (c) the amount in the pound of rate chargeable in respect of the hereditament during the year in which the notice is displayed.

(3) If at any time it appears to the district valuer that the fact stated in a certificate under sub-paragraph (1) or this sub-paragraph are no longer accurate, he shall give to the site operator a further certificate of the alteration bringing the facts so stated up to date; and the certificate or last certificate received by the site operator under this sub-paragraph shall after his receipt of it (or, if it is received in October, then from the beginning of the following April) take the place of the certificate under sub-paragraph (1) for the purposes of sub-paragraph (2)(b).

(4) The notice required by sub-paragraph (2) shall be displayed at some conspicuous place where it is likely to attract the attention of persons occupying pitches for leisure caravans which are included in the hereditament by virtue of this Part.

(5) If so requested by a person occupying any such pitch, the site operator shall give him in writing the information required by sub-paragraph (2) to be given by a notice under that sub-paragraph as the sub-paragraph would apply at the time of the request if a notice were required to be displayed at all times after receipt of a certificate under sub-paragraph (1) and to take account of any certificate received under sub-paragraph (3).

(6) Any site operator who, without reasonable excuse, fails—

- (a) to display and keep displayed a notice as required by sub-paragraphs (2) and (4), or
- (b) to give information as required by sub-paragraph (5) within one month after a written request from that person,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding<sup>F171</sup> level 3 on the standard scale].

**F171** 1984 NI 3

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## SCHEDULE 13

Article 41.

## HEREDITAMENTS EXCLUDED FROM EXEMPTION

*Occupying bodies*

An education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order<sup>[F172]</sup> 1986].

<sup>[F173]</sup>The Northern Ireland Fire and Rescue Service Board]

<sup>[F174]</sup>The governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997.]

*Entry rep. by 1984 NI 10*

A<sup>[F172]</sup> Board of Governors of a maintained school]<sup>[F175]</sup> or a grant-maintained integrated school] within the meaning of the Education and Libraries (Northern Ireland) Order<sup>[F172]</sup> 1986].

<sup>[F176]</sup>The Board of Trustees of the National Museums and Galleries of Northern Ireland.]

<sup>[F177]</sup>University of Ulster].

The Police Authority for Northern Ireland.

The Queen's University of Belfast.

*Entries rep. by 1998 NI 2*

**F172** 1986 NI 3

**F173** Words in Sch. 13 substituted (1.7.2006) by Fire and Rescue Services (Northern Ireland) Order 2006 (S.I. 2006/1254 (N.I. 9)), arts. 1(3), 63(1), **Sch. 3 para. 10**; S.R. 2006/257, **art. 2(d)**

**F174** 1997 NI 15

**F175** 1989 NI 20

**F176** 1998 NI 2

**F177** 1984 NI 10

<sup>[F178]</sup>SCHEDULE 13A

## LISTED BODIES FOR PURPOSES OF ARTICLE 41A

**F178** Sch. 13A inserted (1.4.2006) by Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (S.I. 2006/611 (N.I. 4)), arts. 1(3), 11(2), **Sch. 3**; S.R. 2006/146, **art. 2**

Ancient Order of Hibernians

Apprentice Boys of Derry

Grand Lodge of Freemasons of Ireland

Grand Orange Lodge of Ireland

Independent Loyal Orange Institution

Order of the Knights of St. Columbanus

Royal Antediluvian Order of Buffaloes

Royal Black Institution.]

## SCHEDULE 14

Article 43.

### DISTINGUISHMENT OF INDUSTRIAL HEREDITAMENTS AND FREIGHT-TRANSPORT HEREDITAMENTS

1. This Schedule applies to—

- <sup>F179</sup>(a) industrial hereditaments;
- (b) freight-transport hereditaments.

**F179** prosp. rep. by [2004 NI 4](#)

<sup>F180</sup>**2.**—(1) In the valuation list, every industrial hereditament occupied and used either wholly or partly for industrial purposes shall be distinguished as being so occupied and used, and, as respects every such hereditament occupied and used partly for industrial purposes, the net annual value thereof shall be apportioned by the Commissioner or the district valuer between the occupation and use of the hereditament for industrial purposes and the occupation and use thereof for other purposes.

(2) For the purpose of determining in which proportions an industrial hereditament is occupied and used for industrial purposes and for other purposes respectively—

- (a) the hereditament shall be deemed to be occupied and used for industrial purposes except in so far as any part of it is, under this Order or the transferred provisions relating to the regulation of mines, quarries and factories, to be deemed neither to be, nor to form part of, a mine, quarry or factory;
- (b) where the net annual value of the hereditament does not exceed<sup>F181</sup> £2,290], or where the part of the net annual value of the hereditament attributable to purposes other than industrial purposes does not exceed 10 per cent. of the part thereof attributable to industrial purposes, the hereditament shall be treated as if it were occupied and used wholly for industrial purposes, and, where the part of the net annual value attributable to such other purposes exceeds 10 per cent. of the part thereof attributable to industrial purposes, the part attributable to such other purposes shall not be treated as being attributable to those other purposes except in so far as it exceeds 10 per cent. of the part attributable to industrial purposes;
- (c) where two or more hereditaments in the same occupation are, by virtue of paragraph 3 of Schedule 2, treated as if they formed parts of a single hereditament, each of the several hereditaments shall be deemed to be occupied and used for industrial purposes and for other purposes respectively in the proportion in which, if all the hereditaments formed a single hereditament, that single hereditament would be deemed to be so occupied and used.

**Status:** Point in time view as at 23/11/2006. This version of this Order contains provisions that are not valid for this point in time.

**Changes to legislation:** Rates (Northern Ireland) Order 1977 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[<sup>F182</sup>(3) The Department may, by order subject to negative resolution, substitute for the amount of net annual value specified in sub-paragraph (2)(b) such amount as may be specified in the order.]

**F180** prosp. rep. by [2004 NI 4](#)

**F181** SR 2003/73

**F182** [1996 NI 25](#)

**3.—(1)** In the valuation list, every freight-transport hereditament which is occupied and used either wholly or partly for transport purposes shall be distinguished as being so occupied and used, and, as respects every such hereditament occupied and used partly for transport purposes, the net annual value thereof shall be apportioned by the Commissioner or the district valuer between the occupation and use of the hereditament for transport purposes and the occupation and use for other purposes.

(2) A freight-transport hereditament shall be distinguished in the valuation list by reference to the transport purpose or purposes for which it is occupied and used; and, where a freight-transport hereditament is occupied and used partly for one transport purpose and partly for either or both of the other transport purposes, the proportions of the net annual value of the hereditament attributable to the occupation and use thereof for the several transport purposes shall be shown in the list.

(3) Subject to sub-paragraphs (4) and (5), for the purpose of determining in which proportions a freight-transport hereditament is occupied and used for transport purposes and for other purposes respectively, the hereditament shall be deemed to be occupied and used for transport purposes except in so far as it is occupied and used for the purposes of a hotel, refreshment room, dwelling-house or residence.

(4) Any part of a freight-transport hereditament which is so let out as to be capable of being separately valued shall not be deemed to be occupied and used for transport purposes unless it is actually so occupied and used.

(5) In the case of a hereditament occupied and used for canal transport purposes as part of a canal undertaking or occupied and used for dock purposes as part of a dock undertaking, any part of the hereditament, being a building, yard or other place primarily occupied and used for warehousing merchandise not in the course of being transported, shall not be deemed to be occupied and used for transport purposes.

#### *Schedule 15—Amendments*

SCHEDULE 16

Article 63(2).

TRANSITIONAL PROVISIONS, ETC.

PART I

TRANSITIONAL PROVISIONS

*Interpretation*

1. In this Part—

“former local authority” means an existing local authority within the meaning of Part IX of the Local Government Act (Northern Ireland) 1972 ;

“local Act” includes an Act confirming a provisional order;

“rate”, except in relation to a rate under the 1972 Order or this Order means—

- (a) a rate made by a former local authority under a transferred provision repealed by or under the 1972 Order or under any provision in a local Act corresponding to such a provision; or
- (b) any water rate (including a domestic water rate and a public water rate).

*Certificate and statement as to rates, etc.*

2. In Article 16 any reference to rates, except in relation to rates for the current year or rates already paid, includes a reference to rates within the meaning of this Part.

*Paras.3#7 spent;* subsequently repealed (1.4.2007) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 41, Sch. 3; S.R. 2006/464, art. 2(4)

*Commissioner of Valuation and Boundary Surveyor*

8. The officer who, immediately before the commencement of this Order, was deemed to have been, or had been, appointed as Commissioner of Valuation for Northern Ireland shall be deemed to have been appointed under Article 36 as Commissioner; and the officer who, immediately before that commencement, was exercising the functions of Boundary Surveyor by virtue of the assignment mentioned in the 1972 Order, Schedule 18, Part I, paragraph 13, shall continue so to exercise those functions.

*Review of revision of valuation list made while appeal pending*

9. Article 55 shall apply in relation to revisions made before as well as after the commencement of that Article (including revisions made before 1st April 1973).

*Paras.10, 11 spent;* subsequently repealed (1.4.2007) by Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/2954 (N.I. 18)), arts. 1(3), 41, Sch. 3; S.R. 2006/464, art. 2(4)

**Status:** Point in time view as at 23/11/2006. This version of this Order contains provisions that are not valid for this point in time.

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### *Rate rebates*

**12.** Any reference in paragraph (2) of Article 28 to relief by way of rebate under that Article includes a reference to relief by way of rebate under Article 28 or 28A of the 1972 Order.

### *Charity shops*

**13.** Any alteration in the valuation list made in consequence of Article 5(1) of the Rates Amendment (Northern Ireland) Order 1977 or Article 41(5) may be treated for the purpose of levying a rate for the year ended on 31st March 1977 as having had effect from the beginning of that year or from such later date as is appropriate in all the circumstances; and, for the purpose of determining what (if any) later date is appropriate, paragraphs (2) to (6) of Article 13 shall apply (and consequently Articles 11(2)(a) and 32(7)(b) shall have effect) as if the reference in Article 13(2) to Article 13(1)(f)(ii) included a reference to this paragraph.

### *Reduction of regional rate on dwellings*

**14.** An order made under Article 27(1)(a) of the 1972 Order (as originally made) fixing the amount of reduction, in respect of dwelling-houses, of the regional rate for the year ending on 31st March 1978 shall be deemed to be an order made under Article 27(4).

## PART II

### CONSTRUCTION OF REFERENCES

**1.** Subject to the provisions of this Order, all transferred provisions relating to rates which were in force immediately before 1st October 1973 shall, so far as not repealed by or under the 1972 Order or any other statutory provision, apply in relation to rates under this Order.

**2.** References in any transferred provision or other document to any rate which is a rate in lieu of which a rate under this Order is levied shall be construed as references to a rate under this Order.

**3.** References in any transferred provision or other document to rating authorities in connection with the levying of rates shall be construed as references to the Department and in any other connection shall be construed as references to the Department and district councils.

**4.** References in any transferred provision or other document to a hereditament, in connection with rates or the valuation of property for purposes of rates, shall be construed as references to a hereditament within the meaning of this Order.

**5.** References in any transferred provision or other document to the valuation lists or the revised valuation list shall be construed as references to the valuation list within the meaning of this Order.

**6.** References in any transferred provision or other document, in connection with the valuation lists, to the areas of local authorities shall be construed as references to the districts of district councils.

**7.—(1)** Where the net annual value of any agricultural land, agricultural building or livestock or poultry building is relevant for the purposes of any transferred provision or other document, that value shall be deemed to be the amount which the Commissioner certifies would be entered in the



valuation list as the net annual value of the land or building in question if it were a hereditament and if it were valued under the transferred provisions repealed by the 1972 Order.

(2) The Department may require the Commissioner to make charges, in accordance with a table of fees approved by the Department, for any certificate supplied by him under this paragraph.

8. A reference in any transferred provision or other document to the officer to whom the head of the Department has, for the time being, assigned for exercise and performance the functions transferred to the Department from the Commissioner of Valuation and Boundary Surveyor for Ireland (except a reference to such an officer in relation to functions of the Boundary Surveyor), and any reference which is to be construed as such a reference, shall be construed as a reference to the officer appointed, or deemed to have been appointed, under Article 36 as Commissioner of Valuation for Northern Ireland.

## PART III

### SAVINGS

#### *Principles of valuation*

1. Subject to the variations provided for in the 1972 Order and this Order, the principles on which hereditaments are to be valued continue to be those applicable before 1st April 1973;<sup>F183</sup> . . . .

F183 1996 NI 25

#### *The Commissioner, Deputy Commissioner and district valuers*

2.—(1) A person shall not be disqualified to act as Commissioner, Deputy Commissioner or district valuer by reason only that he is the owner or occupier of<sup>F184</sup>, or is chargeable to rates under Article 25A in respect of,] any property the rates in respect of which are affected by the exercise of his functions.

(2) Nothing in sub-paragraph (1) authorises any person to whom that sub-paragraph applies to act in relation to any property which, or any part of which, he himself owns or occupies<sup>F184</sup> or is so chargeable].

F184 2004 NI 4

#### *Errors in making valuations, etc.*

3.—(1) A rate or the levying of a rate shall not be affected by reason of any omission to give any notice required by the 1972 Order or this Order, or by reason of any error, omission, misdescription or variance in the making of a valuation or apportionment, in the preparation of the valuation list or in altering the valuation list; and it shall not be necessary in any proceeding in relation to, or to the levying of, a rate, or in relation to a valuation or alteration to give evidence of the performance of any of the preliminaries required in the making of a valuation, apportionment or alteration.

(2) In this paragraph “rate” includes a rate as defined in paragraph 1 of Part I of this Schedule.

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#### *Demand notes, etc.*

4.—(1) A demand note, certificate or other document which purports to be made in pursuance of any provision of the 1972 Order or this Order shall not be quashed or deemed to be void or voidable for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of that Order or this Order, and if the person or hereditament charged or intended to be charged or affected thereby is designated therein according to a common intent and understanding.

(2) A demand note, certificate or other document shall not be impeached or affected by reason of a mistake therein as to—

- (i) the name of a person liable, or
- (ii) the situation of any hereditament, or
- (iii) the amount of the rate charged.

#### *Half-rents*

5. The repeal by the 1972 Order of section 7 of the Valuation Acts Amendment Act (Northern Ireland) 1932 does not affect any payment or allowance of a sum which a landlord is required by that section to pay or allow.

*Para. 6 rep. by 1978 NI 20*

#### *Covenants, etc., in leases*

7. The repeal by the 1972 Order of section 13 of the Revaluation (Consequential Provisions) Act (Northern Ireland) 1936 or section 19 of the Revaluation (Amendment and Consequential Provisions) Act (Northern Ireland) 1957 does not affect any change made under the said section 13 or the effect of any memorandum under subsection (4) of that section.

#### *Rates payable by tenants under housing schemes*

8. The repeal by the 1972 Order of section 14 of the Revaluation (Consequential Provisions) Act (Northern Ireland) 1936 does not affect any modification effected by that section in any agreement to which that section applied.

#### *Schedule 17—Repeals*

**Status:**

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**Changes to legislation:**

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