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## STATUTORY INSTRUMENTS

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# 1977 No. 2157

## Rates (Northern Ireland) Order 1977

### PART II **N.I.**

#### RATING

##### *Making and levying of rates*

#### **Regional rate and district rate** **N.I.**

- 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>[F1]</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>[F1]</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.

**F1** 1996 NI 25

#### **Making of rates** **N.I.**

- 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.

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(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>[F2 a]</sup> 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.

**F2** 1998 NI 22

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

8.—(1) Not later than the prescribed date in each year every district council shall make<sup>[F3 a]</sup> 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.

(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.

**F3** 1998 NI 22

#### **Levying of rates** **N.I.**

9.—(1) <sup>[F4 A]</sup> regional rate and<sup>[F4 a]</sup> 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.

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(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.

F4 1998 NI 22

#### **Departures from valuation list in levying rates** **N.I.**

**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** **N.I.**

**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

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(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—

- (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** **N.I.**

**13.—**(1) Where an alteration in relation to a hereditament is made in [<sup>F5</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>[F6]</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>[F5]</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>[F5]</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>[F6]</sup> and has not become rateable under Article 25A], or
  - (ii) <sup>[F7]</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>[F6]</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>[F8]</sup> subject to<sup>[F7]</sup> paragraphs (1A) and (1B)]<sup>[F9]</sup> be deemed to have had effect on and after the date on which the new or altered hereditament came into occupation<sup>[F6]</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>[F5]</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>[F5]</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>[F5]</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>[F5]</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.

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[<sup>F10</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>F11</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>F7</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)—

- (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>F6</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>F6</sup> and a person who is chargeable to rates under Article 25A]; and in paragraph (5) “occupy” shall be construed accordingly.

**F5** 1979 NI 4

**F6** 2004 NI 4

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**F7** 1994 NI 11  
**F8** 1982 NI 2  
**F9** 1996 NI 25  
**F10** SR 1997/144  
**F11** SR 2003/73

#### **Rating on basis of apportioned value in certain cases** **N.I.**

**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** **N.I.**

**15.**—(1) Without prejudice to Articles 11(4)( b), 13(4)( a), 19(4), 27(5)( a) and [F12 31(5)( a)]<sup>F13</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

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- (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.

**F12** 1979 NI 4

**F13** 2004 NI 4

VALID FROM 01/12/2006

[<sup>F14</sup>Payment of interest **N.I.**

**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.]

**F14** 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

**Certificates and statements as to rates, etc. **N.I.****

**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.



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