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STATUTORY INSTRUMENTS

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**1996 No. 3162 (N.I. 25)**

**NORTHERN IRELAND**

**The Rates (Amendment) (Northern Ireland) Order 1996**

*Made - - - - 19th December 1996*

*Coming into operation 20th February 1997*

At the Court at Buckingham Palace, the 19th day of December 1996

Present,

The Queen's Most Excellent Majesty in Council

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

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1.—(1) This Order may be cited as the Rates (Amendment) (Northern Ireland) Order 1996.

(2) This Order shall come into operation on the expiration of 2 months from the day on which it is made.

**Interpretation**

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

(2) In this Order “the principal Order” means the Rates (Northern Ireland) Order 1977.

**Making and levying of rates**

3. In Article 6(3)(a) of the principal Order (regional rate and district rate)—

(a) for “a uniform” there shall be substituted “an”;

(b) at the end there shall be inserted—

“and different rates may be made and levied on hereditaments of prescribed descriptions in accordance with prescribed rules;”.

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

4. In Article 13(1)(c) of the principal Order (effect of alteration in valuation list) for the words from “have effect” to “and after” in the second place where they occur there shall be substituted “be deemed to have had effect on and after the date on which the new or altered hereditament came into occupation or, as the case requires,”.

### **Transitional rate relief**

5. After Article 33 of the principal Order there shall be inserted—

#### **“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).”.

### **Hereditaments**

6.—(1) For Article 37(4) of the principal Order (hereditaments) there shall be substituted—

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

(2) In Article 50(1)(a)(iii) of the principal Order (alteration in the valuation list by Commissioner) for the words from “of an aggregate amount” onwards there shall be substituted “under Article 40(4)”.

### **Rating of hereditaments occupied for the purposes of water supply or sewerage services**

7. After Article 39D of the principal Order there shall be inserted—

#### **“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.”.

### **Industrial hereditaments**

- 8.—(1) In Schedule 2 to the principal Order (definitions relating to industrial hereditaments)—
- (a) in paragraph 1 for the definition of “industrial hereditament” there shall be substituted—
    - ““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;”;
  - (b) after paragraph 2(a) there shall be inserted—
    - “**2A.** For the purposes of sub-paragraph (b) of the definition of “industrial hereditament”—
    - (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;”.

(2) After paragraph 2(2) of Schedule 14 to the principal Order (distinguishment of industrial hereditaments) there shall be inserted—

“(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.”.

### **Railways**

9. In Schedule 3 to the principal Order (definitions relating to railway hereditaments) at the end there shall be added—

“The Department may, by order subject to affirmative resolution, modify the provisions of this Schedule.”.

### **Definition of “Dwelling-House”**

**10.** In Schedule 5 to the principal Order (definition of “dwelling-house”) —

(a) for paragraph 2 there shall be substituted—

“**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
- (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.”;

(b) for paragraph 5(a) and (b) there shall be substituted—

“(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;”.

### **Properties not to be treated as hereditaments**

**11.** In Schedule 11 to the principal Order (properties not to be treated as hereditament)—

(a) after entry 3B there shall be inserted—

“3C	Buildings associated with salmon or eel fishings	<p>(1) This entry applies only to buildings used solely for or in connection with salmon or eel fishings.</p> <p>(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.”;</p>
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(b) after entry 11 there shall be inserted—

“11A	Public parks	<p>(1) This entry applies to any park, recreation or pleasure ground, open space or public walk—</p> <p>(a) which has been provided by a district council or 2 or 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</p> <p>(b) is available for free and unrestricted use by members of the public.</p> <p>(2) In determining for the purposes of this entry whether use is unrestricted</p>
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no account shall be taken of any time during which use is restricted by any temporary closure (at night or otherwise).”.

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### **Basis of valuation**

**12.** In Schedule 12 to the principal Order (basis of valuation)—

(a) in Part I (general rule), after paragraph 4 there shall be inserted—

“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.

**6.** Regulations may—

- (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.”;

(b) in Part III (plant or machinery)—

- (i) in paragraph 4 for the words from “paragraph 3” onwards there shall be substituted “this Part”;
- (ii) paragraph 6 shall be omitted;

(c) in Part IV (railways), in paragraph 5—

- (i) in sub-paragraph (c) at the beginning there shall be inserted “determine, or”;
- (ii) after sub-paragraph (c) there shall be added  
“and  
(d) make provision with respect to the apportionment of the aggregate Amount of the net annual value determined under the order among the districts.”.

### **Repeals**

**13.** The statutory provisions set out in the Schedule are hereby repealed to the extent specified in column 3 of the Schedule.

*N. H. Nicholls*  
Clerk of the Privy Council

## SCHEDULE

Article 13.

## REPEALS

Chapter or Number	Short title	Extent of repeal
1977 NI 28.	Rates (Northern Ireland) Order 1977.	In Schedule 12, in Part III, paragraph 6.  In Schedule 16, in Part III, in paragraph 1 the words from “and in particular” onwards.
1984 c. 12.	Telecommunications Act 1984.	Section 33.  In Schedule 4, paragraph 69.

**EXPLANATORY NOTE***(This note is not part of the Order)*

This Order amends the Rates (Northern Ireland) Order 1977 by—

- (a) enabling different rates to be made and levied for different classes of hereditaments;
- (b) providing for the date of rate liability, in respect of a newly erected or constructed hereditament, to be the date of occupation;
- (c) conferring power to provide for transitional rate relief;
- (d) conferring power to provide for cases in which more than one hereditament are to be treated as a single hereditament and a single hereditament is to be treated as more than one;
- (e) conferring power to revise the rating of hereditaments used for purposes of water supply and sewerage services;
- (f) providing for an industrial hereditament not to include any part of a hereditament used as a private dwelling;
- (g) clarifying the circumstances where a dwelling-house will be considered to be occupied on a commercial basis;
- (h) providing rate exemption for hereditaments used in association with salmon or eel fishings or as public parks;
- (i) conferring power to determine a de-capitalisation rate for hereditaments valued using the contractor’s basis; and
- (j) conferring power to revise the rating of hereditaments used for plant and machinery and railways.