

[^{F1}SCHEDULE 1

Regulation 3(1)

Conditions to be satisfied before the Department can enter an agreement with an eligible person

F1 Regulations revoked with savings (1.4.2012 in so far as not already in operation) by [The Rates \(Deferment\) \(Revocation and Savings\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/147\)](#), **reg. 3(1)** (with **reg. 3(2)**)

1. The capital value of the qualifying hereditament shall not be less than £50,000.

Commencement Information

I1 Sch. 1 para. 1 in operation at 1.4.2010, see **reg. 1**

2.—(1) Subject to sub-paragraph (2), the qualifying hereditament must be the only or principal residence of an eligible person, who is of pensionable age on 1st April in the year in which the agreement is entered into.

(2) The condition as to pensionable age in sub-paragraph (1) shall not apply in the case of an eligible person who is the surviving partner of a person who had made an agreement under these Regulations in respect of the qualifying hereditament.

Commencement Information

I2 Sch. 1 para. 2 in operation at 1.4.2010, see **reg. 1**

3.—(1) An eligible person has made an application to the Department and has furnished the Department with such information as the Department may reasonably require.

(2) An eligible person shall have informed the Department of any change of circumstances affecting the application made or the information furnished under sub-paragraph (1).

Commencement Information

I3 Sch. 1 para. 3 in operation at 1.4.2010, see **reg. 1**

4.—(1) Subject to sub-paragraph (2), there shall be no rates due and payable by an eligible person for a year earlier than that in which the agreement is entered into.

(2) Sub-paragraph (1) shall not apply in the case of rates due and payable in respect of the qualifying hereditament by an eligible person who is the surviving partner of a person who had made an agreement under these Regulations in respect of that hereditament.

Commencement Information

I4 Sch. 1 para. 4 in operation at 1.4.2010, see **reg. 1**

5. Where an eligible person owns an estate in any of the land constituting the qualifying hereditament as a joint tenant or as a tenant in common, the other joint tenants or tenants in common must be eligible persons and enter into the agreement.

Commencement Information

I5 Sch. 1 para. 5 in operation at 1.4.2010, see [reg. 1](#)

6.—(1) The value of the beneficial interest of an eligible person in the qualifying hereditament, as ascertained by the Department, shall not be less than 40 per cent. of an authorised person's estimate of the market value of the qualifying hereditament.

(2) Sub-paragraph (1) shall not apply in a case of an eligible person who is the surviving partner of a person who had made an agreement under these Regulations in respect of the qualifying hereditament, but such a person will not be entitled to defer the payment of rates for a particular year if condition 4(a) or (b) of Schedule 2 applies.

Commencement Information

I6 Sch. 1 para. 6 in operation at 1.4.2010, see [reg. 1](#)

7. Any person, other than an eligible person, with an estate in any of the land constituting the qualifying hereditament shall have consented in writing to the agreement.

Commencement Information

I7 Sch. 1 para. 7 in operation at 1.4.2010, see [reg. 1](#)

8. Any person who is in, or may go into, occupation of the qualifying hereditament (other than an eligible person) and who has attained the age of 17 years shall have—

- (a) consented in writing to the agreement; and
- (b) agreed in writing to postpone any rights or interest which he has, or may acquire in the future, in the qualifying hereditament to the rights and interest of the Department in that hereditament,

and an eligible person shall have warranted that all such persons have done so.

Commencement Information

I8 Sch. 1 para. 8 in operation at 1.4.2010, see [reg. 1](#)

9. The eligible person shall have acknowledged in writing that—

- (a) he is aware that, on termination of the agreement, the qualifying hereditament may have to be sold in order to pay the amount outstanding under the agreement; and
- (b) he has been advised by the Department to seek independent legal and financial advice before entering into the agreement.

Commencement Information

I9 Sch. 1 para. 9 in operation at 1.4.2010, see [reg. 1](#)

SCHEDULE 2

Regulations 3(5) and 4

Conditions of an agreement

1. The agreement holder shall keep the hereditament insured for the full cost of rebuilding or reinstatement and shall furnish to the Department, on demand, evidence of such insurance.

Commencement Information

I10 Sch. 2 para. 1 in operation at 1.4.2010, see [reg. 1](#)

2. The agreement holder shall keep the hereditament in good and substantial repair and condition.

Commencement Information

I11 Sch. 2 para. 2 in operation at 1.4.2010, see [reg. 1](#)

3.—(1) The agreement holder shall only be entitled to defer payment of the total amount of rates chargeable in respect of the hereditament for any year.

(2) Paragraph (1) shall not apply in respect of the year in which the agreement terminates.

Commencement Information

I12 Sch. 2 para. 3 in operation at 1.4.2010, see [reg. 1](#)

4. The agreement holder shall not be entitled to defer the payment of rates for a particular year if—

- (a) the value of his beneficial interest in the hereditament, as ascertained by the Department, would, after the deferment, be less than 30 per cent. of an authorised person's estimate of the market value of the hereditament; or
- (b) the value, as ascertained by the Department, of his beneficial interest in the hereditament disregarding the amount outstanding under the agreement would, on 1st April of that year, be less than 40 per cent. of an authorised person's estimate of the market value of the hereditament on that date.

Commencement Information

I13 Sch. 2 para. 4 in operation at 1.4.2010, see [reg. 1](#)

5.—(1) Compound interest shall accrue on a day to day basis on the amount outstanding under the agreement and the annual rate of interest used to calculate that accrual shall be—

- (a) if there is only one official dealing rate in force on a particular day, 1 per cent. below that rate;
- (b) if there is more than one official dealing rate in force on a particular day, 1 per cent. below the rate in force at the end of that day,

but in no case shall the annual rate of interest used to calculate the accrual be less than 1 per cent.

Changes to legislation: There are currently no known outstanding effects for the *The Rates (Deferment) Regulations (Northern Ireland) 2010*. (See end of Document for details)

(2) In this condition “official dealing rate” means the rate announced from time to time by the Monetary Policy Committee of the Bank of England⁽¹⁾ and for the time being in force as the official dealing rate, being the rate at which the Bank of England is willing to enter into transactions for providing short term liquidity in the money markets.

Commencement Information

I14 Sch. 2 para. 5 in operation at 1.4.2010, see [reg. 1](#)

6.—(1) Subject to paragraphs (2) and (3), the agreement holder shall pay the Department the costs incurred, or to be incurred, by the Department in arranging for—

(a) the registration of the charge created by regulation 5 of the Rates (Deferment) Regulations (Northern Ireland) 2010 in—

- (i) the Land Registry or the Registry of Deeds; and
- (ii) the Statutory Charges Register; and

(b) the modification, vacation or cancellation of a registration mentioned in sub-paragraph (a).

(2) Where an agreement holder has paid a cost mentioned in paragraph (1), the Department may, if the agreement holder so requests, pay him an amount equal to that cost whereupon that amount shall be added, on the date that the Department pays it, to the amount outstanding under the agreement.

(3) A cost mentioned in paragraph (1) may be added to the amount outstanding under the agreement if the cost is not paid to the Department within 28 days of the Department having made a demand in writing for payment of that cost by the agreement holder.

Commencement Information

I15 Sch. 2 para. 6 in operation at 1.4.2010, see [reg. 1](#)

7. The Department may, if the agreement holder so requests, pay him an amount equal to—

- (a) any legal costs which he has paid in connection with the agreement; and
- (b) any costs which he has paid in connection with obtaining information for the purposes of the agreement,

whereupon that amount shall be added, on the date the Department pays it, to the amount outstanding under the agreement.

Commencement Information

I16 Sch. 2 para. 7 in operation at 1.4.2010, see [reg. 1](#)

8. The agreement holder shall not mortgage or charge the land constituting the hereditament or borrow further monies secured on that land without the consent in writing of the Department.

Commencement Information

I17 Sch. 2 para. 8 in operation at 1.4.2010, see [reg. 1](#)

(1) The Monetary Policy Committee of the Bank of England was constituted on a statutory basis by section 13 of the Bank of England Act 1998 (c. 11)

9.—(1) The agreement holder or, in the case of the death of an agreement holder, the agreement holder's personal representatives, shall inform the Department of any change of circumstances affecting the hereditament or the agreement within 28 days of the change of circumstances having occurred and, without prejudice to the generality of the foregoing, shall, in particular, inform the Department—

- (a) of any change of address of an agreement holder;
- (b) if an agreement holder becomes bankrupt, makes a composition or arrangement with his creditors or becomes subject to a bankruptcy restrictions order;
- (c) of the creation or assignment of any estate or interest in the land constituting the hereditament;
- (d) if an agreement holder ceases to occupy the hereditament as his only or principal residence;
- (e) if the hereditament is damaged to such an extent that its market value is affected;
- (f) of any alteration to the level of insurance held in respect of the hereditament;
- (g) of the death of an agreement holder.

(2) The agreement holder shall furnish the Department as soon as possible with any further information as the Department may reasonably require in relation to any change of circumstances referred to in paragraph (1).

Commencement Information

I18 Sch. 2 para. 9 in operation at 1.4.2010, see [reg. 1](#)

10.—(1) The agreement holder may suspend deferment of the payment of rates for a particular year by notice in writing served on the Department before 31st December in the preceding year.

(2) A notice served under paragraph (1) shall, subject to paragraph (6), continue to have effect for subsequent years unless withdrawn by a further notice in writing served on the Department by the agreement holder before 31st December in the year preceding the first year for which the withdrawal of the suspension is to have effect.

(3) Where an agreement holder ceases to occupy the hereditament as his only or principal residence the Department may, without prejudice to condition 12(1)(h), suspend deferment of the payment of rates by notice in writing served on the agreement holder before the beginning of the first year for which the suspension is to have effect.

(4) A notice served under paragraph (3) shall continue to have effect until withdrawn by a further notice in writing served on the agreement holder by the Department.

(5) During a period of suspension of deferment of the payment of rates, interest shall continue to accrue on the amount outstanding under the agreement in accordance with condition 5.

(6) Where during a period of suspension of deferment of the payment of rates under paragraph (1), the agreement holder fails to pay any rates which are due and payable in respect of the hereditament, the Department may, by notice in writing served on the agreement holder, determine that the suspension shall cease to have effect from the beginning of the year for which the rates are due and payable and accordingly, any rates which are paid in respect of the hereditament for that year shall be treated as a payment under the agreement.

(7) Paragraph (3) shall not apply in the case of an agreement holder whose only or principal residence is in a hospital, nursing home or residential care home.

Commencement Information

I19 Sch. 2 para. 10 in operation at 1.4.2010, see [reg. 1](#)

11. The agreement holder may at any time, without penalty, repay all or part of the amount outstanding under the agreement.

Commencement Information

I20 Sch. 2 para. 11 in operation at 1.4.2010, see [reg. 1](#)

12.—(1) Without prejudice to condition 13 and to the rights, privileges, obligations and liabilities acquired, accrued or incurred under the agreement, the Department shall be entitled to terminate an agreement with immediate effect by notice in writing served on the agreement holder where—

- (a) the whole of the amount outstanding under the agreement has been repaid;
- (b) an agreement holder dies and there is no other agreement holder whose only or principal residence is in—
 - (i) the hereditament; or
 - (ii) a hospital, nursing home or residential care home;
- (c) the hereditament or any interest in the hereditament is, in whole or part, sold or transferred by way of gift;
- (d) an agreement holder becomes bankrupt, makes a composition or arrangement with his creditors or becomes subject to a bankruptcy restrictions order;
- (e) an agreement holder or any other person has made a statement in connection with the agreement which is false or misleading in a material particular;
- (f) an agreement holder is in default of any obligation under the agreement and—
 - (i) has not rectified the default to the satisfaction of the Department within 28 days (or such other period as may be specified by the Department) of being served by the Department with a notice in writing specifying the default and requiring it to be remedied; or
 - (ii) the default is not capable of remedy;
- (g) the hereditament ceases to be a qualifying hereditament;
- (h) an agreement holder ceases to occupy the hereditament as his only or principal residence.

(2) A person is not an agreement holder for the purposes of paragraph (1)(b) by virtue of being a personal representative of an agreement holder.

(3) Paragraph (1)(h) shall not apply in the case of an agreement holder whose only or principal residence is in a hospital, nursing home or residential care home.

Commencement Information

I21 Sch. 2 para. 12 in operation at 1.4.2010, see [reg. 1](#)

13.—(1) On termination of the agreement, the amount outstanding under the agreement shall, subject to paragraph (2), become immediately due and payable.

(2) The Department may arrange in exceptional circumstances for the amount outstanding under an agreement (including interest accruing after termination of the agreement) to be paid by instalments over such period as the Department shall determine where the Department is satisfied that, without such an arrangement, a person would suffer undue hardship.

(3) Where an arrangement is made under paragraph (2), the Department shall send the agreement holder a statement in writing specifying—

- (a) the period over which the instalments are to be paid;
- (b) the respective dates on which those instalments are to become due; and
- (c) the respective amounts of those instalments,

together with a statement in writing that interest shall continue to accrue in accordance with condition 5 until the amount outstanding under the agreement has been paid in full.

(4) The Department may by a further statement in writing make such adjustments in the instalment amounts payable under paragraph (2) as may be necessary in consequence of any change in the rate of interest under condition 5.

(5) Where pursuant to an arrangement under paragraph (2), the amount outstanding under the agreement is payable by instalments, the amount outstanding shall, subject to paragraph (6), be recoverable only to the extent of each respectively of those instalments as and when it falls due.

(6) An arrangement under paragraph (2) shall terminate if any instalment is not paid on or before the date on which it becomes due and the Department serves notice in writing on the agreement holder that, by reason of the default, the arrangement is being treated as cancelled, and upon the service of any notice under this paragraph any amount outstanding under the agreement shall become immediately due and payable.

(7) Notwithstanding the termination of the agreement regulations 5 and 6 of the Rates (Deferment) Regulations (Northern Ireland) 2010 and conditions 1, 2, 5, 6, 8, 9 and 11 as well as this condition shall continue to apply until the amount outstanding under the agreement has been paid in full.]

Commencement Information

I22 Sch. 2 para. 13 in operation at 1.4.2010, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Rates (Deferment) Regulations (Northern Ireland) 2010.