EXPLANATORY MEMORANDUM TO

Rates (Unoccupied Hereditaments) Regulations (Northern Ireland) 2011

S.R. 2011 No. 36

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Finance and Personnel to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 25A (6) of, and paragraph 1(1) to (3) of Schedule 8A to, the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)) ("the 1977 Order") and is subject to the negative resolution procedure.

2. Purpose

2.1. Under Article 25A of the 1977 Order rates are payable on unoccupied properties that fall within a class prescribed by Regulations. The Non-Domestic Rating (Unoccupied Hereditaments) Regulations (Northern Ireland) 2007, as amended, ("the 2007 Regulations") prescribed a class of property consisting of all non-domestic buildings or parts of buildings except those listed in the Schedule to those Regulations.

2.2. These Regulations revoke and replace the 2007 Regulations to prescribe domestic buildings and parts of buildings, as well as non-domestic buildings and parts of buildings, for the purposes of Article 25A of the 1977 Order. This means that unoccupied domestic property will become rateable on and from 1 October 2011.

2.3. These Regulations also extend some of the existing non-domestic exclusions from the unoccupied rating charge to domestic property and, in addition, introduce several new exclusions for specific classes of domestic property.

2.4. Regulation 1 contains the citation and commencement provisions.

2.5. Regulation 2 contains interpretation provisions.

2.6. Regulation 3 prescribes the class of property which will be subject to the unoccupied rating charge.

2.7. Regulation 4 revokes the 2007 Regulations.

2.8. The Schedule lists the classes of property which are excluded from the unoccupied rating charge.

2.9. Paragraph 1 of the Schedule restates the existing exclusion for non-domestic properties which have been unoccupied for a continuous period not exceeding three months.

2.10. Paragraph 2 of the Schedule provides for a new exclusion for new domestic property which is still in the possession of a developer and which has never been occupied. The exclusion will apply for eighteen months for a property which is deemed, under the Regulations, to become unoccupied

before 1st April 2012, and for twelve months for a property which is deemed, under the Regulations, to become unoccupied on or after 1st April 2012.

2.11. Paragraph 3 of the Schedule restates the existing exclusion for non-domestic properties for which the person entitled to possession is a company limited by guarantee within the meaning of Part 1 of the Companies Act 2006 (2006 c. 46), which is also funded in respect of its capital costs, in whole or in part, by a public body and which provides accommodation and support for a trade or business.

2.12. Paragraph 4 of the Schedule restates the existing exclusion for qualifying industrial properties.

2.13. Paragraphs 5, 6, 7 and 8 restate, and extend to domestic properties, existing exclusions in relation to prohibitions on occupation (paragraphs 5 and 6), listed buildings (paragraph 7) and buildings included in the Schedule of monuments compiled under Article 3(1) of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (S.I. 1995/1625 (N.I. 9)) (paragraph 8).

2.14. Paragraph 9 restates the exclusion for all non-domestic properties with a rateable net annual value of less than £2,000.

2.15. Paragraph 10 creates a new exclusion for all domestic properties with a rateable capital value of less than £20,000.

2.16. Paragraph 11 restates, and extends to domestic properties, the existing exclusion that applies where the person entitled to possession of the property is so entitled only in his capacity as the personal representative of a deceased person.

2.17. Paragraphs 12 and 13 restate, and extend to domestic properties, the existing exclusions that apply where there subsists in respect of the estate of the person entitled to possession of the property a bankruptcy order (paragraph 12) or where the person entitled to possession of the property is so entitled in his capacity as a trustee under a deed of arrangement (paragraph 13).

2.18. Paragraph 14 restates, and extends to domestic properties, the existing exclusion that applies where the person entitled to possession of the property is a company in administration or is a company subject to a winding-up order.

2.19. Paragraph 15 restates, and extends to domestic properties, the existing exclusion that applies where the person entitled to possession of the property is so entitled in his capacity as a liquidator.

2.20. Paragraph 16 restates, and extends to domestic properties, the existing exclusion that applies where the person entitled to possession of the property is the Foyle, Carlingford and Irish Lights Commission.

2.21. Paragraph 17 creates a new exclusion for domestic property where the person entitled to possession of the property has his only or principal residence in a hospital, nursing home or residential care home, or is detained, and when they last occupied the property it was their sole or

main residence. The exclusion will only apply where all persons entitled to possession fall within the exclusion category.

2.22. Paragraph 18 has the effect of excluding from the prescribed class any property which is the subject of an agreement made with the Department under Article 21 of the Rates (Northern Ireland) Order 1977 (payment of rates by owners by agreement).

3. Background

3.1. The outcomes of the Northern Ireland Executive's 2007 Review of Rating were announced to the Assembly on 27 November 2007. As part of a range of measures the Executive agreed that the rating of empty homes should be introduced to assist with wider policy objectives related to housing affordability and supply and to raise additional revenue. It was subsequently announced that work would begin on taking forward the rating of empty homes.

4. Consultation

4.1. Views were sought on the broad direction of domestic rating policy during a 12 week consultation exercise in 2007, which initiated the Executive's Review of Rating. In November 2007 the Executive agreed to take forward a range of measures, including the rating of empty homes, subject to further research and consultation. This was undertaken between May and August 2008.

4.2. A consultation report, setting out the way forward on a range of policy issues, was published on 6 January 2009.

4.3. Full details of the consultation process and associated documentation can be accessed at the Rating Policy Division website at the following link: www.dfpni.gov.uk/rating-review.

4.4. In addition to the public consultation undertaken since 2007 there was also extensive liaison with the Assembly's Finance and Personnel Committee over the period.

5. Equality Impact

5.1. It is the Department's assessment that there are no new equality impact implications in respect of the non-domestic parts of the Regulations, given that they are a re-enactment of an existing measure.

5.2. In relation to the rating of empty homes an EQIA was carried out as part of the initial policy development processes. The details of this, which were contained within the associated consultation material can be accessed at www.dfpni.gov.uk/rating-review.

6. Regulatory Impact

6.1. A regulatory impact assessment was not considered necessary as the Regulations result in no or negligible new costs or savings for business, charities or voluntary bodies.

7. Financial Implications

7.1. The measure will increase rate revenue, and broaden the tax base. At this stage it is estimated that the rating of empty homes could raise up to £10m,

and possibly as much as £15m, in the first full rating year depending on how successful Land and Property Services is in compiling a comprehensive list of owners. This includes both regional and district rates revenue.

7.2. The measure is intended to encourage owners of empty homes to ensure occupation and therefore over time, as behaviours change, direct revenues may decline. There will, however, be significant additional revenue raised longer term, albeit indirectly, as these properties become occupied and therefore become liable for 'normal' rates.

7.3. The annual recurrent operational costs, from the first full year of operation, are estimated to be in the region of £200,000 per annum.

8. Section 24 of the Northern Ireland Act 1998

8.1. It is the view of the Department that these Regulations are compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. In so far as these Regulations relate to non-domestic rating, they follow closely the Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008, as amended, except that the exclusion of qualifying industrial hereditaments from unoccupied rating is not limited to a period of six months.

10.2. In so far as these Regulations relate to domestic rating, there is no corresponding legislation in Great Britain as domestic rating in Northern Ireland is significantly different from council tax in Great Britain.

11. Additional Information

11.1. Not applicable.