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Rates (Amendment) Bill

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Paper addressing the Rates (Amendment) Bill, including key developments in the Department of Finance and Personnel's formulation of policy and legislative proposals and a commentary on the Bill.

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Executive Summary

During a Ministerial Statement regarding the 2011-15 Budget on 4 March 2011, the Minister of Finance and Personnel, Mr Sammy Wilson MP MLA, announced his intention to rebalance the non-domestic rating system in order to aid smaller businesses during the ongoing economic downturn. The Minister proposed to do this by means of expanding the Small Business Rate Relief scheme and cross-subsidising it through a rates levy on large retail premises.[1]

The Department of Finance and Personnel (DFP) launched a public consultation ('Rating of Commercial Properties: small businesses, large retail properties and empty shops') on 28 June 2011. The consultation was open for responses for 16 weeks until 18 October 2011.

The Committee for Finance and Personnel carried out an inquiry into the proposed changes and made a number of recommendations to the Department, including the need to evaluate the current Small Business Rate Relief (SBRR) scheme and extend the scope of the large retail levy to include all business sectors.

The Committee was overall in favour of the proposals to SBRR scheme but had concerns, for example, that the scheme was being used as a "blunt instrument" and did not exclude businesses with multiple premises and that relief would not be passed on by landlords.

The Rates (Amendment) Bill (the Bill) proposes to amend the *Rates (Northern Ireland) Order 1977* (the principal Order). It seeks to achieve five policy objectives:

- To create a large retail levy which will raise revenue to fund an expansion in the Small Business Rate Relief scheme;
- To deal with the issue of empty retail premises by allowing certain window displays which will retain the property's valuation assumption as unoccupied;
- To clarify the legislation relating to non-domestic revaluation and thereby ensure consistency of approach in valuation assumptions;
- To repeal the rule applying to the referencing of certain properties by their volume of trade, therefore ensuring consistency of valuation between different sectors, effective from the next revaluation (currently scheduled for April 2015);
- To give a rebate to new owner/occupiers of previously empty shops.

Analysis and commentary provided at the end of this paper concludes that this Bill appears to meet its policy objectives. It also highlights points for consideration.

[1] Northern Ireland Assembly, Official Report, 4 March 2011 http://archive.niassembly.gov.uk/record/reports2010/110304.htm

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1. Introduction

The Minister of Finance and Personnel introduced the Rates (Amendment) Bill to the Assembly on 16 January 2012. The Bill's second stage is due to be debated on 24 January 2012. Accelerated passage[2] will be requested by the Minister on 24 January 2012. It is assumed that this will pass (in order for the legislation to take effect in April 2012).[3]

The Bill proposes to amend the *Rates (Northern Ireland) Order 1977* (the principal Order). It seeks to achieve five policy objectives:

- To create a large retail levy which will raise revenue to fund an expansion in the Small Business Rate Relief scheme;[4]
- To deal with the issue of empty retail premises by allowing certain window displays which will retain the property's valuation assumption as unoccupied;
- To clarify the legislation relating to non-domestic revaluation and thereby ensure consistency of approach in valuation assumptions;
- To repeal the rule applying to the referencing of certain properties by their volume of trade, therefore ensuring consistency of valuation between different sectors, effective from the next revaluation (currently scheduled for April 2015);
- To give a rebate to new owner/occupiers of previously empty shops. (On 17 January 2012 a ministerial amendment relating to this was approved by the Executive and submitted to the Committee.)

This bill paper provides information on the following:

1. Department of Finance and Personnel policy formulation and the consultation process.
2. The findings of the Committee for Finance and Personnel report.
3. The proposed Bill, including a clause-by-clause review and commentary on the effects of the Bill.

[2] Under Standing Order 42 accelerated passage is defined as one which removes the Committee Stage scrutiny of a Bill http://www.niassembly.gov.uk/Assembly-Business/Standing-Orders/Standing-Orders/#42

[3] The Committee for Finance and Personnel considered this issue when deciding to undertake its inquiry. See the committee report, page 1 http://www.niassembly.gov.uk/Documents/Reports/Finance/7990.pdf

[4] For an explanation of the current scheme see Appendix A: Background Information

2. Department of Finance and Personnel Policy Formulation

2.1. Ministerial Statement

During a Ministerial Statement regarding the 2011-15 Budget on 4 March 2011, the Minister of Finance and Personnel, Mr Sammy Wilson MP MLA, announced his intention to rebalance the non-domestic rating system in order to aid smaller businesses during the ongoing economic downturn. The Minister proposed to do this by means of expanding the Small Business Rate Relief scheme and cross-subsidising it through a rates levy on large retail premises.[5]

2.2. DFP Consultation

The Department of Finance and Personnel (DFP) launched a public consultation ('Rating of Commercial Properties: small businesses, large retail properties and empty shops') on 28 June 2011. The consultation was open for responses for 16 weeks until 18 October 2011.

Preferred approach

The consultation paper outlined the Department's preferred approach to rebalancing the rating of non-domestic properties:

- General expansion of the Small Business Rate Relief scheme. 20% relief to be provided to eligible premises with an NAV of £5,001 - £10,000;
- No additional relief would be provided to those currently receiving Small Business Rate Relief (i.e. with NAV of £5,000 or below);
- An average levy on rate bills of around 20% to be applied to those retail premises with a rateable value of £500,000 or more, in the form of a regional rate supplement.[6]

The paper noted that striking the correct balance, between the levy and the relief, would be the key consideration in finalising policy.

It was also noted in the paper that some retail businesses' profits had fared better than others during the recession and that for small businesses the rates burden (as a percentage of turnover) was much higher when compared with larger retailers.[7]

The paper also included additional proposals regarding empty property window displays:

- Allowing the use of shop fronts or shop window displays for (non-political) community, artistic or other non-commercial purposes so that the full occupied rate

[5] Northern Ireland Assembly, Official Report, 4 March 2011 http://archive.niassembly.gov.uk/record/reports2010/110304.htm

[6] Department of Finance and Personnel, 'Rating of Commercial Properties' public consultation paper, June 2011 http://www.dfpni.gov.uk/rating-review/rating_of_commercial_properties_public_consultation.pdf

[7] Consultation paper, page 19

is not charged on otherwise empty properties. Entitlement to 50% empty property relief (or exclusion if applicable) would be preserved.

The policy seeks to rectify a situation where business premises owners are discouraged from brightening store fronts as more properties lie empty during the economic downturn, which has a detrimental impact, especially in town centres.

- It was intended that all of the above measures would apply from April 2012 until April 2015, therefore covering the remainder of the spending review period and taking account of the economic situation.

A final proposal dealt with the clarification of valuation assumptions:

- Clarifying the legislation relating to the valuation assumptions used at non-domestic revaluation, by being more specific about the state and circumstances to be taken into account in compiling a new valuation list. This would take effect at the next general revaluation in 2015.

This proposal seeks a primarily technical amendment to the *1977 Order* in respect of creating a standard revaluation (NAV) list: the list of rateable values for every building used by LPS in collecting rates.

Current legislation requires that a non-domestic property is in the same state and circumstances at the time of the valuation as at the time when the NAV list comes into force, generally some 2 years later.

The change seeks to ensure that changes in the economy over the intervening period do not create inconsistency between the relativity of different rateable properties.

Alternatives to the preferred approach

The consultation document included alternatives to the preferred approach, namely:

- Applying the levy to all large business premises regardless of sector. Additionally, this would include public sector, utility companies and other service industries rather than only retail premises.

- Creating a rateable value banded levy, where the more expensive large retail properties would pay a higher percentage share of the levy; e.g. NAV of £500,000 - £599,000 would pay a 10% increase; £600,000 - £799,000 a 17.5% increase; £800,000 or above a 27% increase. The possibility of adding a cap to the maximum rate payable was an additional consideration.

- Either decreasing the NAV threshold for the large retail levy to £400,000 (to include more premises with a subsequent decrease in the levy to 17%) or increasing the threshold to £600,000 (with an increase in the levy to 27% while including fewer premises). These alternatives sought to raise the same amount of revenue from the levy under different thresholds for inclusion.

- All non-domestic ratepayers not included under SBRR pay a small amount towards the expansion of the scheme.

The consultation welcomed comment on these as well as the suggestion of further alternatives. The Department also included explanations of why these alternatives had not been chosen as the preferred option.

2.3. Responses to the Consultation

The consultation paper set out the preferred and alternative approaches of the Department, as outlined above, and sought comments and the suggestion of other alternatives. The Department noted that responses would also inform and contribute to their preliminary analyses of the impact of the proposals. The information gathered would then be used to finalise the policy proposals.

Responses from organisations and individuals were published on the Department's Rating Review website[8], along with a DFP consultation outcome report (which included a response summary), published in November 2011.[9] The Minister of Finance and Personnel and departmental officials also held a number of meetings with business and their representative organisations as part of the consultation process. 70 written responses were received, mostly from businesses and their umbrella organisations and district councils.

Large retail levy

Of the responses overall 31 supported the Department's position on the large retail levy, 22 disagreed (mostly affected businesses and their representative organisations) and 7 others made comments or had concerns in relation to the matter without taking a definitive position. A breakdown of the support/opposition is detailed below:

Position on Large Retail Levy	**Total**	*Businesses*	*District Councils*	*Organisations*	*Political Reps*	*Ratepayer*
Support/agreed	**31**	3	13	10	4	1
Against	**22**	13	1	8	-	-
Comments/ concerns	**7**	-	2	4	1	-
Total	**60**	**16**	**16**	**22**	**5**	**1**

[8] Accessible at http://www.dfpni.gov.uk/rating-review/index/rating_of_commercial_properties_consultation.htm

[9] DFP, 'Rating of Commercial Properties' consultation outcomes report, November 2011 http://www.dfpni.gov.uk/rating-review/index/rating_of_commercial_properties_consultation/commercial_rating_consultation_outcomes_report.htm

While supporting, on balance, the general position on the large retail levy some of the 31 respondents were also in favour of a levy on out-of-town car parks or out-of-town stores more generally.

Those agreeing[10] with the levy cited that large businesses had fared better, on balance, than their smaller rivals in recent years, that the levy was not large enough to harm business and that there was limited public funding to assist small businesses. Some also felt that small businesses would invest the relief in the local economy.

Those opposed[11] to the levy argued that the levy would impact adversely on jobs and investment. The *NI Retail Consortium* argued that it would equate to 400 jobs a year while *Tesco* argued that it could cost 1,500 jobs over 4 years. A number of respondents also argued that the levy was unfair for singling out the retail sector over other industries and punishing businesses for being successful. There were also concerns that the cost of doing business in NI was already higher than in the rest of the UK and that the levy would send mixed messages to investing businesses in light of the current debate surrounding corporation tax devolution. Some, including those who agreed with the levy, argued that the levy could be passed onto consumers through potential price increases, though it was also noted that this might not occur due to national pricing structures.

Small Business Rate Relief scheme expansion

40 of the responses supported the expansion of the current Small Business Rate Relief scheme; while there was no outright opposition to assisting small business through rate relief, 14 respondents had concerns and comments. The breakdown of responses is detailed below:

Position on SBRR expansion	**Total**	*Businesses*	*District Councils*	*Organisations*	*Political Reps*	*Ratepayer*
Support	**40**	6	14	14	5	1
Comments/ concerns	**14**	6	2	5	1	-
Total	**54**	**12**	**16**	**19**	**6**	**1**

Those that supported[12] the scheme's expansion supported the argument that the extension of the scheme would assist small businesses through the economic downturn as rates are a significant burden. The reduced overheads would then be reinvested in the local economy

[10] Including *Federation of Small Businesses, Institute of Revenues, Rating and Valuation, NI Independent Trade and Retail Association, Lisburn City Centre Management, Northern Ireland Local Government Association* and *Derry City Council.*

[11] Including *ASDA, B&Q, Tesco, Next, Savills, NI Food & Drink, Belfast Chamber of Trade and Commerce, Belfast City Centre Management, CBI, NI Retail Consortium, Londonderry Chamber of Trade and Commerce* and *Belfast City Council.*

[12] Including *Craigavon Borough Council, Castlereagh Borough Council, Federation of Small Businesses, Institute of Revenues, Rating and Valuation, NI Local Government Association, NI Independent Retail Trade Association* and *Portstewart Vision.*

and help keep high streets open for business when they are faced with competition from "out-of-town" retailers.

14 respondents had comments and concerns,[13] some questioning the effectiveness of the scheme in helping small businesses and suggesting that a scheme assist on the basis of need. Concerns were also raised that the scheme provides relief for larger business chains which occupied a number of small premises (such as banks and bookmakers).

14 respondents argued that consideration should be given to extending the scheme for more than 3 years. 9 responses expressed concern that the Executive would find it politically difficult to remove the additional relief (and therefore the levy) after 3 years.[14]

Empty shop window displays

All 38 respondents agreed with provision for allowing all empty shops with non-commercial window displays to be classified as "unoccupied" for rating purposes (and therefore continue to receive 50% rate relief) until April 2015, along the lines that it would help assure the viability of town centres. While 26 fully agreed with the preferred approach of the Department, 11 supported the broad direction but favoured extension of the permitted activities provided for, such as allowing advertising and physical occupation of the premises for community or artistic purposes.[15]

Clarifying assumptions for future revaluations relating to volume of trade

Of 21 total responses to this proposal, 17 indicated support for the Department's approach, 2 opposed the proposal[16] and a further 2 suggested account should be made for a 'material change in circumstances'. Some confusion was noted due to the proposed changes coming into effect only under a new valuation list (due April 2015) rather than applying to the current NAV list.

Other issues raised in the consultation process

- Concern over the previously cancelled revaluation of April 2011.
- Support for the proposed introduction of the Business Improvement Districts (BIDs) programme.
- Extension of 50% property relief for new ventures for 6/12 months.
- Land value taxation as an alternative to business rates.
- Linkage between rent and rates.

[13] Including *Arcadia, Asda, Next, NI Retail Consortium* and *Tesco*.
[14] See page 21 of the consultation outcomes report for more information.
[15] Including 1 business, 4 representative organisations, 5 district councils, and 1 political representative.
[16] *Maxol* and *NI Hotels Federation*

2.4. Integrated Impact Assessments

The Department carried out an initial Integrated Impact Assessment (IIA) in June 2011 to assess the potential impact on Section 75 subgroups, rural areas and deprived communities.

Views on the initial Integrated Impact Assessments were sought during the consultation process and to build and these and inform the Department's final assessments, which were published in December 2011.

Little additional evidence was made available through the consultation process though some comment was made on the initial IIA. No significant issues were highlighted by the assessment process.

Equality Impact Assessment (EQIA)

The EQIA found that there would be no significant impact on Section 75 subgroups affected by the SBRR scheme.[17]

A similar assessment carried out on the large retail levy as proposed showed no significant impact on the majority of Section 75 subgroups. For two of the subgroups (widowed/divorced and non-whites), however, there was a significant over-representation in wards affected by the levy.[18]

A shortcoming was identified in the EQIA in that there was not enough data provided by the 2001 census on the political opinion and sexual orientation subgroups. A limitation of the analysis used was acknowledged as those affected by the large retail levy may live outside the wards where the stores are located.

New Targeting Social Need (New TSN) Analysis

The New TSN analysis found that there would be a similar effect of the SBRR scheme across each decile of deprivation and therefore did not disproportionately impact on the most deprived areas.

A similar analysis of the large retail levy found that the average Multiple Deprivation Measure (MDM) of areas affected by the levy would be 23.33, higher than the Northern Ireland average of 21.37. This was considered somewhat skewed as many of the businesses affected would be located within only 3 highly deprived wards, Victoria Square, Castle Court, Donegall Place and Boucher Road, in which 22 of the 80 properties were located. When these wards were eliminated the average MDM of the remaining 40 wards affected fell to 20.71

[17] The assessment was carried out on the basis of the effects of the SBRR scheme on electoral wards with a higher, or lower, than average representation of benefitting businesses and the percentage of each subgroup represented within. For more information see the final Integrated Impact Assessment paper on SBRR extension.

[18] For the widowed/divorced group, this was only in the case of being significantly over-represented in the wards affected by the levy than those not affected, and was considered not significantly higher than the Northern Ireland average. For more information see the final Integrated Impact Assessment paper on the large retail levy.

As with the EQIA, a limitation to using the ward method was identified with affected by the levy may live outside the wards where the stores are located.

Rural Proofing

An analysis on the urban and rural locations of businesses benefitting from the SBRR scheme implied that there would be a larger amount of beneficiaries in urban areas as those in the NAV £5,000-£10,000 range accounted for a larger proportion of the urban economy (13.7%) over the rural economy (9.7%), but not markedly so.

A similar analysis of the impact of the large retail levy implied that nearly all (87%) of the businesses affected would be in urban areas while rural areas would remain largely unaffected.

2.5. Financial Impact

The Department carried out a number of analyses of the financial impacts of the proposals:

- Extending the SBRR scheme to give 20% rate relief to NAV £2,001-£5,000 (as proposed) would be likely to cost £6m at 2012-13 levels, increasing to £6.3m for 2013-14 and £6.6m for 2014-15.
- The Department also considered the financial impact of the large retail levy of 15%, finding that it would:
    - Affect around 80 stores;[19]
    - Raise approximately £5m in additional revenue for 2012-13;
    - Equate to an estimated 0.19% of the sales turnover of the affected stores, or approximately 0.004% of UK sales turnover and 0.07% of combined UK operating profit.
- A Competition Assessment (under Cabinet Office guidance) did not find any issues as all comparable retailers over a £500,000 rateable value would be affected, with no disproportionate affect among them.
- With the SBRR scheme expansion the Department concluded that competition between small businesses would be positively affected as they receive assistance with their operating costs, without a significant impact on the degree of competition in individual markets.
- The Department considered that there was a low risk of increased prices at stores as most operated national pricing structures and a change in prices limited to Northern Ireland would be costly to administer.

[19] A list of affected properties can be found in Annex D of the consultation paper.

- Administration costs are through to be minimal for both the SBRR scheme extension and the large retail levy as the data and billing methods already exist and are in use by LPS.

Regulatory Impact Assessment (RIA)

This assessment considered risks that could be encountered under the proposals:

- The Department considered risks that could be encountered by the levy's introduction, such as a drop in profits or an increase in prices. This could impact adversely on employment and further investment as businesses seek to limit their exposure to the increased rate bills. The Department concluded that the overall risks were minimal as the costs to businesses involved were low.
- Under the NAV targeting of small business for the SBRR scheme some businesses that could be categorised as "small" under other definitions may not be eligible for relief. Similarly, and an issue that was raised during consultation, a large chain business operating from multiple small premises could find itself benefitting from the scheme.
- Harming expansion as firms seek to stay within the upper threshold of the SBRR limit of NAV £10,000.
- There was a risk of landlords not passing on savings in rates to tenants. However, this is an area open to competition as in every market.

The Department considered these risks to be low overall and were outweighed by the benefits of proceeding with the proposals. They also announced an intention to monitor and keep under review the levy and rate relief scheme to the end of the three year period.

2.6. DFP 'Way Forward Report'

The Minister of Finance and Personnel published a 'Way Forward Report'[20] in December 2011 outlining and addressing various issues so-far raised:

- Given a modest increase in regional rates revenue the Department and Executive decided to moderate the levy at 15%, rather than 20%, addressing concerns that the levy would impact adversely on jobs and investment.[21] The financial outcomes due to this change differed in the final assessment from the initial outcome.
- There are no plans to continue the levy past 2015.

[20] DFP 'Rating of Commercial Properties: Way Forward Report', December 2011 http://www.dfpni.gov.uk/rating-review/way_forward_report_-_large_retail_levy_and_small_business_rate_relief_-_december_2011-2.pdf

[21] The actual impact of the 15% levy will vary between council areas, between 13.5% and 17% as each council sets their own district rate while the regional rate is set centrally.

- The SBRR would exclude ratepayers that occupy multiple (3 or more) premises of any size, providing savings of £1m a year from both the current and expanded scheme.
- A proposal was made to give a 50% rebate to ratepayers who newly occupied a shop previously empty for 12 months or more.
- Revaluation would go ahead in 2015 which will redistribute the rates burden so that businesses that have fared better in the downturn will pay a greater share while those that have suffered will not have to pay as much.

3. Committee for Finance and Personnel Report

For the proposals to be in effect by April 2011 it would be necessary for the legislation to pass by the accelerated passage procedure which, if approved by the Assembly, would remove the opportunity for the normal Committee Stage scrutiny of the Bill. Due to time limits the Committee chose to focus on the large retail levy and Small Business Rate Relief scheme expansion, rather than include the empty window displays and valuation assumption proposals which were included in the Bill.

The Northern Ireland Assembly Committee for Finance and Personnel held an inquiry in order to undertake thorough scrutiny of the policy proposals prior to the final decisions being made by the Executive, and in advance of the introduction of the Bill. This resulted in the 'Report on the Proposed Large Retail Levy and the Expansion of the Small Business Rate Relief Scheme', which was printed on 7 December 2011.[22]

Key Conclusions and Recommendations of the Committee

1 The Committee was, in principle, supportive of the proposals to extend the SBRR scheme. However, concerns remained that the scheme is being used as a "blunt instrument" as it applies to small properties regardless of sector or need.

2 The Committee had concerns that rate relief would not be passed onto businesses by landlords or would translate into higher rents.[23] Other evidence given contended that the relief would not be effective enough to help small businesses. This was the focus and general conclusion of an Economic Research Institute of Northern Ireland (ERINI) *Investigation into a Small Business Rate Relief (SBRR) Scheme in Northern Ireland* (2008).[24]

3 The Committee recommended that the Department undertake a comprehensive evaluation of the existing SBRR scheme at the earliest opportunity and identify

[22] Northern Ireland Assembly Committee for Finance and Personnel, 'Report on the Proposed Large Retail Levy and the Expansion of the Small Business Rate Relief Scheme', 7 December 2011, NIA 25/11-15 http://www.niassembly.gov.uk/Documents/Reports/Finance/7990.pdf

[23] Committee report, paragraphs 27-34

[24] http://www.dfpni.gov.uk/rating-review/sbrr_report_march_2008_published_15_apr_08.pdf

longer-term alternatives or refine the scheme in order to target those businesses most in need.[25]

4 The Committee supported the principle of excluding businesses with multiple premises from the rate relief and using any savings from this exclusion to increase the relief to other small businesses.[26]

5 The Committee expressed the view that it was essential for revaluation of non-domestic property to take place no later than April 2015 and that an implementation plan and timetable for the related work is provided to the Committee to enable members to monitor progress.[27]

6 The Committee recommended that the burden of the levy be shared between all large business sectors, not just retail. It was recommended that the legislation ensure flexibility in the scope of the levy to allow it to be extended in the last two years, as well as seeking other methods to fund the SBRR.[28]

7 The Committee requested why a "pence in the pound" provision for years 2 and 3 of the large retail levy has not been included in the Bill.

DFP Response to the Committee Report

On 15 December 2011 the Minister and Department submitted a response to the Committee recommendations. On 11 January 2012 the Minister and his officials also briefed the Committee on the Bill.[29]

1. The Department accepted the recommendation to undertake a comprehensive evaluation of the effectiveness of the SBRR scheme at the earliest opportunity, with the involvement of the Committee. The Department also accepted the recommendation to further refine the SBRR scheme to target those businesses most in need.

2. It was also accepted that the Department should identify longer term alternatives to possibly replace the scheme after the extended 3-year proposal.

3. The Minister and Department shared the principle of excluding businesses with multiple premises from the rate relief and are in the process of developing policy in relation to this issue.

4. The Minister and Department agreed with the need for revaluation of non-domestic property to be in effect by April 2015 and agreed to provide an implementation plan and timetable to the Committee in due course.

[25] Committee report, Key Conclusion and Recommendation (KC&R) 3, 4 & 5 and paragraphs 34-38
[26] Committee report, KC&R 7 and paragraphs 51-58
[27] Committee report, KC&R 8 and paragraphs 66-73
[28] Committee report, KC&R 12, 13 & 14 and paragraphs110-122
[29] Minutes of the Committee meeting on 11 January 2012 http://www.niassembly.gov.uk/Assembly-Business/Committees/Finance-and-Personnel/Minutes/11-January-2012/

5. The Minister and Department shared the view that there was some confusion over whether the measures were aimed at out-of-town retailing and would make a greater effort to clarify the aims of the policy.

6. Minister and Department shared the concerns about sharing the burden of the levy between all large business sector. However, the Executive had agreed that the scope of the policy should not be reviewed as such a provision would cause uncertainty in the business community. Therefore there would be no flexibility in the scope of the measures provided in the Bill.[30]

7. The Department explained that as rates are calculated by taking account of district (council) rates the poundages for future years are, as yet, unknown. An estimated increase in district rates (of 2.1%) is being used for the first year and the poundages for years 2 and 3 will be brought forward by an Order, subject to the Assembly for affirmative resolution.

4. Proposed Bill

4.1. Overview of the Clauses

The Bill amends the *Rates (Northern Ireland) Order 1977* (the Principal Order).

Clause 1: Large retail levy

This clause inserts a new Article 7A into the principal Order (making of rates).

Provision is made to:

- Levy an additional regional rate of 8.52 pence in the pound on all large retail premises for the year ending 31 March 2013 (year 1);
- Make and levy additional regional rates for year 2 and year 3 on all large retail premises;
- Define "large retail hereditaments" as a hereditament with a rateable NAV of £500,000 or more which is occupied and used primarily for retail sales (not including restaurants and vehicle retailers).

The clause also provides consequential detail on the collection of the additional regional rate.

Clause 2: Window displays on empty shops

This clause inserts a new paragraph 9 into Schedule 8A of the principal Order (unoccupied hereditaments).

Provision is made to:

[30] Official Report of the Committee for Finance and Personnel meeting on 11 January 2012 http://www.niassembly.gov.uk/Assembly-Business/Committees/Finance-and-Personnel/Minutes/11-January-2012/

- Treat empty shops with window displays as “unoccupied” for the purposes of the principal Order and in rating valuation assumptions;
- Restrict the definition of window displays, in this instance, to those which are used for non-commercial and non-political purposes;
- Apply the above between April 2012 and April 2015.

The clause also makes provision allowing the Department to modify these measures by way of subordinate legislation (such as redefining what constitutes a window display).

Clause 3: Revaluation assumptions

This clause amends Article 39A of the principal Order (time by reference to which, and basis on which, valuations to be made for new NAV list).

Provision is made to:

- Define the assumptions used when compiling a new rateable values list for non-domestic properties.

Clause 4: Volume of trade

This clause amends paragraph 4 of Part I of Schedule 12 of the principal Order (special provision where net annual value fixed having regard to volume of trade or quantity of minerals or other substances extracted).

Provision is made to:

- Repeal the rule surrounding the volume of trade being taken into account in valuation of a certain properties, for example quarries and pubs;
- Apply the above to new valuation lists only (i.e. from April 2015).

NB: The remaining clauses are merely technical in nature and are not discussed here.

Ministerial amendments: Rebate for previously empty premises

The draft amendment inserts a new clause (1A) into the Bill and adds Article 31D to the principle Order (temporary reduction of rates for specified hereditaments).

Provision is made to:

- Grant a rebate in rates of 50% for 12 months to shops which had been previously unoccupied for a continuous period of at least 12 months, so long as the occupation commenced before 31 March 2013.
- This will only apply if the newly occupied premises remain occupied for the rebate period. If occupation ceases the rebate will be proportionately reduced.
- To qualify for the rebate an application to the Department will have to be made before 1 April 2013.

The clause also makes provision allowing the Department to modify these measures by way of subordinate legislation (such as extending the length of the scheme).

NB: The other amendment (Clause 6) is merely technical in nature and relates to the commencement of the above clause.

4.2. Analysis and Commentary on the Bill

Large retail levy

- For the first year the levy is instituted as an additional regional rate of 8.52 pence in the pound.[31] This figure was arrived at through analysis of the average district rates,[32] in order to increase the average total rate paid by 15%.[33]

- For the second and third years there is no defined additional regional rate. This is because district rates change from year to year and it is not possible to forecast the increases so far in advance. The clause makes provision for the Department to calculate the additional rates nearer to the time and subject them to the Assembly for affirmative resolution under Statutory Rule guidance.

- In evidence given to the Committee for Finance and Personnel the Department assured that these future amounts would equate to a 15% average increase.

- As was proposed the levy will apply to all retail premises with a NAV of £500,000 or more (with the exclusion of restaurants and motor vehicle showrooms). The Bill also gives flexibility in this regard, subject to affirmative resolution.

- The relevant clause (1) meets the Executive's proposal of introducing a 15% levy on large retail properties from April 2012 to April 2015.

Small Business Rate Relief scheme

- The Bill makes no provisions for extending the SBRR scheme which is already in place.[34]

- The Department intends to extend this scheme to give additional rates relief of 20% to all business properties with a NAV of £2,001 and £5,000.

- The Department also intends to develop proposals to exclude businesses with multiple premises (3 or more) from the SBRR scheme. This has additional effects in decreased the burden of cost of the scheme to be taken up by the levy.

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[31] This would increase the current regional rate poundage from 0.3069 to 0.3921

[32] Set individually by each council and ranging between 0.163702 to 0.303867. These are added to the regional rate to calculate the "poundage" or "pence in the pound" rate levied on rateable values. For a full list of poundages see http://www.dfpni.gov.uk/lps/index/property_rating/rate_poundages_2010.htm

[33] Had the 20% increase gone ahead it would have meant an additional regional rate of around 11 pence.

[34] The current scheme as mentioned on page 7.

Empty window displays

- The relevant clause (2) meets the Department's proposal to classify otherwise empty shops with non-commercial and non-political window displays to remain classed as "unoccupied" for valuation purposes, thereby lessening their rates burden.
- This aims to assure that empty shops do not contribute to the degrading of business areas.
- The clause gives the Department flexibility in redefining what constitutes a window display for these purposes.

Revaluation assumptions

- The relevant clauses (3 and 4) appear to clarify the issues surrounding the assumptions used in valuing a property.
- These changes will come in effect only with the compiling of a new NAV list (in April 2015) as substantiated in the Bill.

Rebate for previously unoccupied shops (ministerial amendment)

- The relevant clauses (1A and 6) meet the objective outlined in the 'Way Forward Report' (see on page 13, above) of giving a 50% rate rebate to the new occupiers of empty shops.
- This aims to encourage retailers into empty premises so benefitting the local area.
- The Department has scope to extend the length of the scheme which is limited to April 2013 by the clauses in the amendment.

Appendix A: Background Information

Small Business Rate Relief scheme

The *Rates (Amendment) Act 2009* (the 2009 Act) established statutory instruments allowing the Department to introduce a Small Business Rate Relief (SBRR) scheme for Northern Ireland which came into effect on 1 April 2010.[35]

Under this scheme business premises with a net annual value (NAV)[36] of £2,000 or less would receive 50% relief in rates paid, and premises with NAV of £2,001 to £5,000 would receive 25% rates relief. The relief was applied automatically by Land and Property Services (LPS) from the April 2010 billing period onwards.[37]

Cancellation of non-domestic revaluation

On 25 May 2010 the Minister announced his decision not to proceed with the revaluation of non domestic properties, planned for April 2011.[38]

The revaluation had originally been due to take effect in April 2010. However, it was postponed given instability in the local commercial property market and to allow time for the market to recover.

The next revaluation will now take place in April 2015. This decision will allow Northern Ireland to align with the next revaluation of non domestic properties in the rest of the UK, which is due to occur then.

[35] Rates (Amendment) Act 2009 http://www.legislation.gov.uk/nia/2009/8/contents See also, Explanatory Notes: http://www.legislation.gov.uk/nia/2009/8/notes/division/6/1

[36] Also known as rateable value.

[37] LPS, Small Business Rate Relief Fact Sheet http://www.dfpni.gov.uk/rating-review/lps_fact_sheet_-_small_business.pdf

[38] DFP Press Release http://www.northernireland.gov.uk/index/media-centre/news-departments/news-dfp/news-dfp-may-2010/news-dfp-25052010-minister-announces-cancellation.htm