



Northern
Ireland
Office

Proposed Draft Criminal
Damage (Compensation)
(Amendment) (Northern
Ireland) Order 2008

Explanatory Document

June 2008

NORTHERN IRELAND OFFICE

**PROPOSED DRAFT ORDER IN COUNCIL UNDER SECTION 85 OF THE
NORTHERN IRELAND ACT 1998**

**PROPOSED DRAFT CRIMINAL DAMAGE (COMPENSATION)
(AMENDMENT) (NORTHERN IRELAND) ORDER 2008**

EXPLANATORY DOCUMENT

This Explanatory Document has been prepared by the Northern Ireland Office to assist the understanding of the proposed draft Criminal Damage (Compensation) (Amendment) (Northern Ireland) Order 2008 and to help inform consideration of the proposal. It does not form part of the Order.

The document should be read in conjunction with the proposal. It is not meant to be a comprehensive description of the proposal so when a draft Article or part of a draft Article does not require additional explanation or comment, none is given.

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1. How to respond to this document

Comments on the proposals should be submitted in writing to:

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Written comments should be submitted by post, fax or e-mail to arrive no later than 10 November 2008.

Views are also welcome on the implications of the proposals on equality of opportunity for all groups specified under Section 75 on the Northern Ireland Act 1998. A copy of the Equality Screening Form for these proposals is included at **Annex A** of this document along with some questions for consideration.

An electronic version of this Explanatory Document and the proposed draft Order are available to view and download from the NIO website (www.nio.gov.uk). Hard copies will be posted on request. The text phone contact details are provided above. Copies in various other formats, including large print, Braille, audio cassette, computer disk etc may be made available

on request. If you wish to access the document in an alternative format or language, please let us know and we will do our best to assist you.

If you are responding on behalf of a group or organisation please make this clear. The Northern Ireland Office is committed to publishing a list of those organisations that comment on these proposals and to making available, to anyone who asks for it, a copy of the comments and our response to them. **If you do not wish your comments to be published in this way, you must make this clear in any response you submit.** In line with best practice, individual responses will also be published on the internet at www.nio.gov.uk, unless a respondent has requested otherwise.

Please see Section 7 - Responses: Confidentiality and Disclaimer - for more guidance.

If you have any concerns or complaints about the consultation process, you should contact the Northern Ireland Office's consultation co-ordinator, Donna Knowles on 02890 527015, or e-mail Donna.Knowles@nio.x.gsi.gov.uk

Alternatively you may wish to write to the address below:

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2. Introduction

2.1. On the 21 April 2008 the Secretary of State, Shaun Woodward, announced that he intended to publish proposals in June to introduce a specific legislative change to provide a statutory compensation scheme for community halls. In making this commitment, he said that the Government shared the concern which has been expressed by all political parties about the increased criminal attacks on community halls.

2.2. This Explanatory Document explains, and seeks views on, the proposal to introduce an additional criterion, relating specifically to community halls, in the statutory criminal damage compensation scheme.

3. Overview of Current Arrangements

3.1. The Compensation Agency (CA) was established as an Executive Agency within the Northern Ireland Office on 1 April 1992. It is responsible for the administration of statutory Compensation Schemes on behalf of the Secretary of State. The legislation under which compensation can be paid for criminal damage to property is the Criminal Damage (Compensation) (Northern Ireland) Order 1977 (“the 1977 Order”).

4. Background to change

4.1. The proposal to amend the 1977 Order has been prompted by concerns about an increase in criminal attacks on community halls in Northern Ireland, resulting in claims which have sometimes not qualified for criminal damage compensation under the 1977 Order. These claims may not have been eligible for compensation due to difficulty in obtaining evidence to prove that the damage was caused by either three or more people, or the PSNI was unable to establish and certify that damage was the result of terrorist/paramilitary activity.

4.2. There were 17 claims for criminal damage compensation resulting from attacks on community halls in 2007, compared to an average of 3 per annum between 2001 and 2006.

4.3. The 2007 year generated around £600k in criminal damage claims relating to attacks on community halls, mainly Orange halls; around two thirds of which are expected to be eligible for statutory compensation under the scheme as it currently stands. The previous six years generated successful claims amounting to an average of £85k in criminal damage compensation paid out per annum, with 75% of claims accepted for payment.

4.4. The damage caused by these attacks, the loss of the facility and the costs falling to the community halls of repairing that damage, can have a significant impact on the local communities which use the halls. The role played by community halls is vital in maintaining and strengthening the social infrastructure in the areas they serve. Recognising this, the Government believes that steps must be taken to provide support to local communities suffering from an increased level of attacks on these community facilities, in the form of an amended statutory criminal damage compensation scheme.

5. Comparisons with Great Britain

5.1. There is no similar legislation for community halls in Great Britain.

6. Details of the Proposal

6.1. The aim of the proposal is to create a targeted approach to compensation for all community halls that are criminally damaged, but do not otherwise meet the criteria of the current scheme. The intention is to create an additional eligibility criterion that will compensate community halls for criminal damage above the statutory deduction level without the need to prove that the damage was carried out by 3 or more persons or as a result of a malicious act by a person acting on behalf of or in connection with an unlawful association.

6.2. The Government's proposal will add a further criterion to the 1977 Order, which will allow community halls easier access to compensation for criminal damage.

6.3. The new criterion in the 1977 Order will be specific to community halls that are eligible for rates exemption relating to their use, or availability for use, for charitable purposes as set out in the Recreational Charities Act (Northern Ireland) 1958 ("the 1958 Act").

6.4. The 1958 Act defines as charitable the provision, or assisting in the provision of, facilities for recreation or other leisure-time occupation, if the facilities are provided in the interests of social welfare.

6.5. It is proposed that buildings which are exempt from rates, under Article 41(2)(e) or Article 41A of the Rates (Northern Ireland) Order 1977, should be eligible for statutory compensation where they are criminally damaged for damage costing more than the statutory deduction (currently £200). Details of the relevant rates legislation are provided at Annex B.

6.6. It is proposed that the additional criterion is time-limited, recognising that the recent increase in the level of attacks on community halls runs against the prevailing trend, and is not expected to continue in the medium-term. Reflecting this, a sunset clause of 3 years is provided for in the draft legislation. This means that the additional criterion will automatically cease to have effect after 3 years, unless the legislature at that time considers that the legislation is still required and votes to renew it.

6.7. Article 41A was subject by DFPNI to extensive screening and consultation in 2006 and was subsequently accepted in law. Article 41(2)(e), while not previously subject to full equality screening, broadens this approach to cover all community facilities that are wholly or mainly used for charitable purposes as set out in the Recreational Charities Act (Northern Ireland) 1958. The intention is to provide an additional route to statutory criminal damage

compensation to assist all such facilities and, through this measure, directly support and sustain important community infrastructure.

6.8. While the Compensation Agency does not keep data on the use of those community halls by Section 75 categories, the additional criterion applies equally to all claimants who will fall within the definition of community halls. Therefore its effect is expected to impact positively on all local communities by helping to reinstate community halls whenever they are criminally damaged. The mix of community halls covered by Article 41(2)(e) and Article 41A of the Rates (Northern Ireland) Order 1977 is expected to potentially provide access to community facilities to the full range of Section 75 groups.

6.9. It is difficult to estimate how much this proposed extension of access to criminal damage compensation will cost, as it will be dependent on the scale of future attacks on community halls and the outcome of such attacks. Based on the historic level of claims received and the acceptance rate in the period 2001 to 2006, it is estimated that up to an additional £300k per year will be paid in criminal damage compensation relating to attacks on community halls.

7. Responses: Confidentiality and Disclaimer

7.1. The information you send us may be passed to colleagues within the Northern Ireland Office, the Government or related agencies. In line with best practice, individual responses will also be published on the internet at www.nio.gov.uk, unless a respondent has requested otherwise.

7.2. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily: the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations (2004).

7.3. If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act (FOIA), there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations regarding confidence. Noting this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

7.4. Please ensure that your response is marked clearly if you wish your response to be kept anonymous. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. Confidential responses, included in any statistical summary of numbers of comments received and views expressed, will be anonymised. The Department will process your personal data strictly in accordance with the Data Protection Act. In most circumstances this will mean that your personal data will not be disclosed to third parties.

8 Next Steps

8.1. We will aim to publish a summary of the views expressed by consultees and the Department's response on the Northern Ireland Office website within 3 months of the end on the consultation period.

8.2. Subject to the consultation stage and parliamentary consideration thereafter, commencement of the proposed order's provisions will be by order of the Secretary of State.

9. Annex A: Equality Screening Form for Proposed Draft Criminal Damage (Compensation) (Amendment) (Northern Ireland) Order 2008

PART I

1. SCOPING THE POLICY

1.1 Title of policy

Proposed amendment to the Criminal Damage (Compensation)(Northern Ireland) Order 1977 to include a statutory compensation scheme for designated community halls.

1.2 Brief description of policy. Do any other policies interact with this policy?

The Criminal Damage (Compensation)(Northern Ireland) Order 1977 provides compensation for criminal damage to property. The proposal is to add an additional category to the 1977 Order, i.e. designated community halls. This amendment has been prompted by concerns about attacks on community halls in Northern Ireland, resulting in claims that have sometimes not qualified for criminal damage compensation under the 1977 Order. These claims may not have been eligible for compensation due to difficulty in obtaining evidence to prove that the damage was caused by either three or more people, or the PSNI were unable to establish and certify that it was the result of terrorist/paramilitary activity. Given the potential scope of this amendment, and hence the potential liability that may fall on the public purse should the list of designated facilities be too broad, it is proposed to limit the extension of access to compensation. The new criterion will therefore be specific to community halls that are eligible for rates exemption relating to their use, or availability for use, for charitable purposes as set out in the Recreational Charities Act (Northern Ireland) 1958, and meet the criteria of properties as recognised by Land and Property Services under Articles 41(2)(e) and 41A of the Rates (NI) Order 1977. See Annex B for details of the relevant legislation.

1.3 Aims of policy

To provide additional access to statutory compensation for designated community halls which are at risk of been subjected to criminal damage. The damage caused by these attacks, the loss of the facility and the costs falling to the community halls of repairing that damage can have a very serious impact on the local communities which use these halls for various purposes. The role played by community halls is vital in maintaining and strengthening the social infrastructure in the areas they serve. Therefore the Government believes that it is right that steps are taken to provide support to local communities in the form of an amended statutory criminal damage compensation scheme.

1.4 Who is responsible for devising and delivering the policy?

The Northern Ireland Office Criminal Justice Directorate has devised the policy while the Compensation Agency for Northern Ireland will deliver the policy.

1.5 Are there any linkages to NI Departments or NDPBs in relation to this policy/legislation? How are these interfaces managed?

Regular formal meetings between the Head of NIO Criminal Justice Directorate and the Chief Executive of Compensation Agency for Northern Ireland, in addition to day-to-day communications between officials of each organisation.

The Police Service of Northern Ireland as relevant reports can be requested in relation to acts of criminal damage and associated damage to property.

NIO has relied on the earlier screening and EQIA undertaken by DFPNI in ensuring that the list of designated community halls is compliant with our Section 75 obligations.

1.6 Who is the policy/legislation likely to impact upon? What data is available to facilitate the screening exercise?

Any body or person, defined as the owner of a community hall within the legislation, which has had property in Northern Ireland damaged as a result of an act of criminal damage.

The proposals will have a direct effect only on those claiming compensation for criminal damage, in effect helping to restore them to their position prior to the criminal damage being incurred. The changes will bear on claimants by virtue of the fact that they, as the owners, have been the victim of alleged criminal damage inflicted by others.

The proposal will impact on properties as recognised by Land and Property Services under Articles 41(2)(e) and Article 41A of the Rates (NI) Order 1977 (see Annex B for a list of organisations under Article 41A). Article 41A was subject by DFPNI to extensive screening and consultation in 2006 and was subsequently accepted in law. Article 41(2)(e), while not previously subject to

full equality screening, affords us the opportunity to broaden this approach to cover all community facilities that are wholly or mainly used for charitable purposes as set out in the Recreational Charities Act (Northern Ireland) 1958. The intention is to provide an additional route to statutory criminal damage compensation to assist **all** such facilities and, through this measure, directly support and sustain important community infrastructure.

While the Agency does not keep data in relation to the use of those community halls by Section 75 categories, the additional criterion applies equally to all claimants who will fall within the definition of community halls. Therefore it will impact positively on local communities by helping to reinstate community halls whenever they are criminally damaged. The mix of community halls covered by Article 41(2)(e) and Article 41A of the Rates (Northern Ireland) Order 1977 is expected to potentially provide access to community facilities to the full range of Section 75 groups.

1.7 Who will implement the policy?

The Compensation Agency for Northern Ireland

PART II

2. SCREENING ANALYSIS

2.1 Is there any evidence or indication of higher or lower participation or uptake by different groups? If so, please indicate below.

CATEGORY	YES	NO	DON'T KNOW
Gender	X		
Sexual orientation		X	
Religion	X		
Political opinion	X		
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

Please give reasons for your answer, including sources of data used.

Under the new criterion, claims for compensation may come in greater numbers from some of the organisations included on the Article 41A list e.g. the Orange Order, because attacks against community halls have been, in the main, against those owned by Orange Lodges. This indicates that the Protestant community, Unionist community and males, may come to benefit most from this measure. However, the proposal will apply to all designated community halls which meet the definition in the legislation and the proposal has the potential to be of benefit to various sections of local communities who may choose to use the hall for various purposes. Wider use of these community halls by many groups is commonplace and hence these provisions should benefit all.

The proposed legislation is based on existing rates law and will impact specifically on properties owned by organisations contained in Articles 41(2)(e) and Article 41A of the Rates (NI) Order 1977. Article 41A was subject by DFPNI to extensive screening and consultation in 2006 and was subsequently accepted in law. Article 41(2)(e), while not previously subject to

full equality screening, widens access to statutory compensation and affords us the opportunity to broaden this approach to cover all community facilities that are used wholly or mainly for charitable purposes as set out in the Recreational Charities Act (Northern Ireland) 1958. The intention is to provide an additional route to statutory criminal damage compensation to assist **all** such facilities and, through this measure, directly support and sustain important community infrastructure.

2.2 Is there any evidence or indication that different groups have different needs, experiences, issues or priorities in relation to the particular policy?

CATEGORY	YES	NO	DON'T KNOW
Gender	X		
Sexual orientation		x	
Religion	x		
Political opinion	x		
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		x	
Dependant responsibilities		x	
Marital status		x	

Please give reasons for your answer, including sources of data used:

Under the new criterion claims for compensation are likely to come in greater numbers from some of the organisations included on the Article 41A list e.g. the Orange Order, recognising that attacks against community halls have been, in the main, against those owned by Orange Lodges. This indicates that the Protestant community, Unionist community and males, may come to benefit most from this measure. However, the proposal will apply to all community halls which meet the definition in the legislation and thus we contend that the proposal will be of potential benefit to all sections of local communities. Wider use of these community halls by many groups is commonplace and hence these provisions should benefit all. The mix of community halls covered by Article 41(2)(e) and Article 41A of the Rates

(Northern Ireland) Order 1977 is expected to potentially provide access to community facilities to the full range of Section 75 groups.

The proposed legislation is a positive measure to afford greater access to compensation and is based on existing rates law. The proposal will impact on properties owned by organisations contained in Articles 41(2)(e) and Article 41A of the Rates (NI) Order 1977, and in turn those groups and individuals from the local communities who use these premises. Article 41A was subject by DFPNI to extensive screening and consultation in 2006 and it was subsequently accepted in law. Article 41(2)(e), while not previously subject to full equality screening, widens access to statutory compensation and affords us the opportunity to broaden this approach to cover all community facilities that are used wholly or mainly for charitable purposes as set out in the Recreational Charities Act (Northern Ireland) 1958. The intention is to provide an additional route to statutory criminal damage compensation to assist **all** such facilities and, through this measure, directly support and sustain important community infrastructure.

2.3 Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with others in Government or in the larger community?

CATEGORY	YES	NO	DON'T KNOW
Gender		X	
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

The new criterion in the 1977 Order will be specific to community halls that are eligible for rates exemption relating to their use, or availability for use, for charitable purposes as set out in the Recreational Charities Act (Northern Ireland) 1958. In addition to basing this proposed legislation on Article 41A in the pre-existing Rates law, which has been subject by DFPNI to thorough equality impact assessment, our proposed amendment to compensation arrangements is also based on provisions in Rates law which encompasses community halls owned by a wide range of organisations in Northern Ireland, and used by the local community for various charitable purposes. By focusing on all such community facilities the proposed legislation ensures that a very wide range of facilities is included, with potential benefits from this change to legislation covering a very wide range of community services and interests. The outcome should support community infrastructure and sustain local services that potentially affect the lives of many different groups in local communities.

2.4 Equality Commission guidance states that the screening process should include pre-consultation with those who may be affected by the policy. Have consultations with relevant groups, organisations or individuals indicated that the policy may create problems, which are specific to them?

CATEGORY	YES	NO	DON'T KNOW
Gender		X	
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

Please give reasons for your answer, and details of any consultations that have taken place:

The list of bodies included in Article 41A of the Rates (NI) Order 2006 was subject by DFPNI in 2006 to a full EQIA including public consultation and was subsequently made law in 2006. The proposal to base the extension of access to criminal damage compensation on pre-existing Rates law will be subject to full public consultation on the outcome of screening and consultees will be asked further for their views on the Section 75 impact of the proposal.

2.5 It may be that a policy has an adverse differential impact on certain people in one or more of the categories as a consequence of targeting or affirmative action to combat an existing or historical inequality. If this is the case, please give details below and contact the Equality Unit if you are in doubt:

Not applicable

PART III

EQUALITY IMPACT ASSESSMENT RECOMMENDATION

Equality impact assessment procedures are confined to those policies considered likely to have significant implications for equality of opportunity.

3.1 If screening has indicated that a policy is having an adverse differential impact, how would you categorise it?

Please tick.

Significant impact N/A	Low impact N/A
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3.2 Do you consider that this policy needs to be submitted to a full equality impact assessment?

YES	NO
	X

3.3 What data do you believe may be required to ensure effective monitoring of the policy in the future?

Data on the salient Section 75 categories in relation to:

- those applying for compensation under the Criminal Damage Compensation Scheme;
- successful applicants; and
- applications that have been refused

Impact Questions

We would be particularly interested in your views on the following questions about the Equality Screening Form.

Equality

1. On which equality categories, if any, do you consider the proposals will have an impact?
2. Is there any evidence of higher or lower participation or uptake by different groups in relation to the proposals within any of the nine categories?
3. Is there evidence that different groups have different needs, experiences, issues and priorities in relation to the proposals?
4. Is there an opportunity to better promote equality of opportunity or good relations by altering the proposals, or by working with others, in government or the community at large?

10. Annex B: Article 41 of the Rates (Northern Ireland) Order 1977 - including Articles 41(2)(e) and 41A which support the proposed legislation.

Distinguishment in valuation list of hereditaments used for public, charitable or certain other purposes

41. ^{F1}— (1) Subject to the provisions of this Article, where the Commissioner or the district valuer is satisfied that a hereditament is a hereditament of a description mentioned in paragraph (2), he shall distinguish the hereditament, or cause it to be distinguished, in the valuation list as exempt from rates in accordance with paragraph (3).

(2) The hereditaments referred to in paragraph (1) are—

(a) any hereditament which is altogether of a public nature and is occupied and used for purposes of the public service;

(b) any hereditament which consists of either or both of the following—

(i) a church, chapel or similar building occupied by a religious body and used for purposes of public religious worship;

(ii) a church hall, chapel hall or similar building occupied by a religious body and used for purposes connected with that body or for purposes of any charity;

together, in either case, with buildings ancillary thereto;

(c) any hereditament, other than a hereditament to which sub-paragraph

(b) applies, which—

(i) is occupied by a charity; and

(ii) is used wholly or mainly for charitable purposes (whether of that charity or of that and other charities);

(d) any hereditament, other than a hereditament to which sub-paragraph (b) applies, which is occupied by a body—

(i) which is not established or conducted for profit; and

(ii) whose main objects are charitable or are concerned with science, literature or the fine arts;

where the hereditament is used wholly or mainly for the purposes of those main objects;

(e) any hereditament which is used wholly or mainly for purposes which are declared to be charitable by the Recreational Charities Act (Northern Ireland) 1958

1958 c.16;

[^{F2}(f) any hereditament, other than a hereditament to which sub-paragraph

(e) applies,—

(i) which is occupied by a body that is not established or conducted for profit; and

(ii) which is used, either by the occupying body or by some other person (whether that body or person is a charity or not), to an extent of not less than 10 per cent. for purposes which are declared by the Recreational Charities Act (Northern Ireland) 1958 to be charitable; and

(iii) which is made available by the occupying body for that use—

(aa) where the use is by that body, subject to charges, if any, not more than necessary to defray reasonable expenses actually incurred by the body by reason of that use, or

(bb) where the use is not by that body, for a consideration, if any, not more than necessary to defray such expenses;]

Sub-para. (g) rep. by 1994 NI 11

(3) The hereditament shall be distinguished as exempt—

(a) as to one-half of the extent (if any) to which it is used for such of the purposes mentioned in sub-paragraph (a), (b)(i) or (ii), (c), (d), [^{F3}(e), [^{F4}or (f)]] of paragraph (2) as are domestic purposes; and

(b) as to the whole of the extent (if any) to which it is used for such of those purposes as are not domestic purposes;

and, where the hereditament is used otherwise than either wholly for the purposes mentioned in sub-paragraph (a) or wholly for the purposes mentioned in sub-paragraph (b), the net annual value of the hereditament shall be apportioned by the Commissioner or the district valuer between the use of the hereditament—

(i) for the purposes mentioned in sub-paragraph (a) (if any);

(ii) for the purposes mentioned in sub-paragraph (b) (if any);

(ii) for other purposes (if any);

and the apportionment shall be shown in the valuation list.

(4) Subject to paragraph (5), any use (whether by way of letting or otherwise) for profit shall not be treated as a use for the purposes mentioned in sub-paragraph (a), (b)(i) or (ii), (c), (d), [^{F3}(e), [^{F4}or (f)]] of paragraph (2), unless it directly facilitates the carrying out of those purposes.

(5) Notwithstanding anything in paragraph (4) and without prejudice to the generality of paragraph (2)(c)(ii), a hereditament shall be treated as used for charitable purposes to the extent that it is used for the sale of goods donated

to a charity, so long as the proceeds of sale (after any deduction of expenses) are applied for the purposes of a charity.

(6) This Article does not apply to—

(a) a hereditament which is occupied for the purposes of a public utility undertaking; or

(b) a hereditament which—

(i) is occupied by a body specified in Schedule 13; or

(ii) if hereditaments of any description are included in that Schedule, is a hereditament of that description.

(7) The Department may, by order made subject to affirmative resolution amend Schedule 13 by—

(a) including hereditaments of any description;

(b) adding or omitting any body or any description of hereditaments;

(c) altering the description of any body or hereditament.

(8) A hereditament, or a distinct part of a hereditament, an interest in which belongs to, or to trustees for, a religious body and—

(a) in which (in right of that interest)—

(i) the persons from time to time holding any full-time office as clergyman or minister of any religious denomination, or

(ii) any particular person holding such an office,

have or has a residence from which to perform the duties of the office; or

(b) in which (in right of that interest) accommodation is being held available to provide such a residence for such a person as is mentioned in sub-paragraph (a);

shall be treated for the purposes of this Article as occupied by a charity and used wholly for charitable purposes which are also domestic purposes, whether or not it would be so treated apart from this provision.

(9) In this Article—

any reference to a body includes a reference to persons administering a trust; and any reference to a hereditament which is occupied by a body includes a reference to a hereditament which is occupied for the purposes of a body by trustees for the body or by a person charged with the administration of, or otherwise acting on behalf of the body;

“charity” means a body established for charitable purposes only;

“domestic purposes” means the purposes of providing living accommodation for one or more than one person who is a member or employee of a body by or on behalf of which the hereditament is occupied;

“employee” means a person employed under a contract of service;

Definition rep. by 1994 NI 11

and in paragraph (2)(a) [^{F3}to [^{F4}(f)]] any reference to a hereditament of a description there mentioned includes a reference to a hereditament a distinct part of which is of that description.

[^{F2}(10) In accordance with sub-paragraph (f) of paragraph (2), in paragraphs (3), (4) and (5) as they apply in relation to a hereditament such as is mentioned in that sub-paragraph any reference to use of a hereditament is a reference to its use either by the occupying body or by some other person; and any calculation for any year of the extent of use of such a

hereditament for the purposes mentioned in head (ii) of that sub-paragraph, and any apportionment for any year of its net annual value between uses in pursuance of paragraph (3), shall be made on the basis of comparing—

(a) the number of sessions actually devoted to use for such purposes in that year, with

(b) the total number of sessions that might reasonably be regarded as available for all active uses in that year (that is to say, for use for the purposes mentioned in paragraph (2)(f)(ii) or for meetings, functions or other activities),

“session” for this purpose meaning a continuous period of two hours or more but less than six hours (a continuous period of six hours or more but less than ten being treated as two sessions, one of ten hours or more but less than fourteen being treated as three sessions and similarly for any longer period) during which on any occasion the hereditament, or where different parts of the hereditament are capable of being used concurrently for different purposes, each such part, is used or, as the case may be, is available for use as aforesaid; and in calculating for the purposes of sub-paragraph (b) the total number of sessions that might reasonably be regarded as available for all active uses regard shall be had to all the circumstances and in particular to the location of the hereditament and the actual or potential demand in the neighbourhood for activities for which the hereditament is or might reasonably be made suitable.]

"Distinguishment in valuation list of hereditaments occupied by certain bodies and used or made available for use for charitable purposes

41A. — (1) There shall be distinguished in the valuation list as wholly exempt from rates any hereditament to which paragraph (2) applies which is occupied by a body which is not established or conducted for profit if the body is—

(a) listed in Schedule 13A; or

(b) a member of, or affiliated to, a body listed in Schedule 13A.

(2) This paragraph applies to a hereditament—

(a) which the Commissioner or the district valuer is satisfied is to a substantial extent used or made available for use for purposes which are declared by the Recreational Charities Act (Northern Ireland) 1958 (c. 16) to be charitable or are otherwise charitable—

(i) where the use is by the occupying body, subject to charges, if any, not more than necessary to defray reasonable expenses actually incurred by the body by reason of that use; or

(ii) where the use is not by that body, for a consideration, if any, not more than necessary to defray such expenses; and

(b) which is not a hereditament—

(i) to which Article 31 (reduction of rates on certain hereditaments used for recreation) or Article 41(2)(e)(exemption for recreational charities) applies;

or

(ii) on which a person may under a licence (other than an occasional licence) or a protection order sell intoxicating liquor by retail; or

(iii) in respect of which a club is registered under the Registration of Clubs (Northern Ireland) Order 1996 (NI 23).

(3) Schedule 13A (listed bodies for purposes of this Article) shall have effect.

(4) The Department may by order made subject to affirmative resolution amend Schedule 13A by—

- (a) adding any body which is not established or conducted for profit;
- (b) omitting, or altering the description of, any body.

(5) Article 41(9) shall apply to any reference in this Article or Schedule 13A to a body or to a hereditament of a description mentioned in paragraph (2) as it applies to any reference to a body in that Article or to a hereditament of a description mentioned in paragraph (2)(a) to (e) of that Article.

(6) Expressions used in paragraph (2)(b)(ii) and in the Licensing (Northern Ireland) Order 1996 (NI 22) have the same meaning in paragraph (2)(b)(ii) as in that Order."

SCHEDULE 13A

LISTED BODIES FOR PURPOSES OF ARTICLE 41A

Ancient Order of Hibernians
Apprentice Boys of Derry
Grand Lodge of Freemasons of Ireland
Grand Orange Lodge of Ireland
Independent Loyal Orange Institution
Order of the Knights of St. Columbanus
Royal Antediluvian Order of Buffaloes
Royal Black Institution.