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IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

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THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007

Case Reference No: NIVT12/16

BETWEEN:

THE DEPARTMENT OF FINANCE

Appellant;

-and-

MARY QUINN

Respondent.

_____

Before: Stephens LJ, Treacy LJ and Maguire J

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STEPHENS LJ ***(delivering the judgment of the court)***

[1] Mrs Quinn who is a person with a disability for the purposes of Article 31A of the Rates (Northern Ireland) Order 1977 ("the 1977 Order") applied pursuant to that Article to the Department of Finance ("the Department") for special rates relief in the form of Disabled Persons Allowance ("DPA"). The application was refused by the Department on the basis that she did not qualify for DPA as there were no qualifying facilities in her home. Mrs Quinn appealed to the Northern Ireland Valuation Tribunal ("the Tribunal") which awarded her DPA on the basis that the ramps to the front and back door of her home were facilities necessary to meet her needs and that they were qualifying facilities within the terms of Article 31A(2)(a) of the 1977 Order. On review the Tribunal maintained its decision. The matter has now come to this court by way of a case stated in which the following questions are posed:

(a) Was the Tribunal correct in making a distinction between the word "facility" used in Article 31A and the word "room" used in both the Rating (Disabled Persons) Act 1978 and the Council Tax (Reductions for Disabilities) Regulation 1992?

(b) Did the Tribunal's decision comply with the stated policy behind the legislation by allowing disabled facilities that impact adversely upon the open market value of a hereditament to be taken into account for the purpose of disabled rates relief?

(c) Did the Tribunal err in its interpretation of Article 31A(2)(a) by finding that the two classes of facilities required for meeting the needs of a person who resides in the hereditament and who has a disability in Article 31A(2)(a)(i) and (ii) were non-exhaustive?

(d) If the answer to (c) is no, what is the proper interpretation of Article 31A(2)(a)?

[2] Mr Lockhart QC and Ms Mulholland appeared on behalf of the Department of Finance. Mrs Quinn was not represented nor did she appear in person. The Attorney General was requested to and kindly agreed to act as an amicus. We are grateful to all counsel for their assistance.

The decision of the Tribunal dated 5 April 2017

[3] Mrs Quinn stated that she would not be going to a hearing because she was not fit to travel far. On that basis written submissions only were made to the Tribunal prior to its decision of 5 April 2017 so that the appeal was assessed on the papers.

[4] In its decision the Tribunal set out the various conditions from which Mrs Quinn suffered including rheumatoid arthritis in her back, hips and knees together with asthma. The Tribunal stated that she had back pain and that she required a trike and walking stick to get around inside her home. The Tribunal noted that she was in receipt of Disability Living Allowance, Higher Rate Care Component and Higher Rate Mobility Component.

[5] The Tribunal determined that the following issues were not in dispute:

(a) Mrs Quinn resided in the hereditament.

(b) Mrs Quinn had a disability which affected her mobility including access to and egress from the hereditament.

(c) Mrs Quinn needed the ramps to gain access to her home.

[6] The Tribunal then referred to Article 31A of the 1977 Order which it had set out in full. The Tribunal held that the words in Article 31A(2)(a) "including a facility of either of the following descriptions" did not limit the qualifying facilities to those then listed. The Tribunal stated that "the qualifying facilities are not limited to those listed in (Article 31(2)(a)(i) & (ii) of the 1977) Order but that other facilities should also be considered provided the facility is required to meet the needs of the disabled

person." The ramps were not one of the listed facilities but nevertheless the Tribunal held that they were qualifying facilities on the basis that they "were facilities necessary to meet (Mrs Quinn's) needs, specifically the need to gain access to and from her home." On that basis the Tribunal awarded Mrs Quinn DPA.

The Tribunal's review decision dated 27 September 2017

[7] The Department applied under Rule 31(1)(a) of the Valuation Tribunal Rules (Northern Ireland) 2007 for a review of the decision dated 5 April 2017. The Department served both a written application for review with grounds of appeal and a skeleton argument. Mrs Quinn did not make submissions in response and did not attend. The Tribunal recorded the Department's case as being that the Tribunal had erred in its approach to the legislation in two broad areas:-

(a) That Article 31A(2)(a) of the Order gave an exhaustive list of the facilities that could attract the special relief and therefore was only available in cases where there was a room which satisfied the requirements of 31A(2)(a)(i) or (ii). In support of this the Tribunal recorded that the Department submitted that the use of the word "including" in Article 31A had no relevance and should be ignored.

(b) That the case law had established that the disabled relief was only available where there was a room and that the room had to be additional to other rooms within the premises. In this respect the Department relied on previous decisions of the Tribunal which it was suggested supported the approach taken by it and which followed the case law in England and Wales.

[8] In its decision dealing with the review the Tribunal stated that it was not persuaded that it had made an error in its decision dated 5 April 2017. The Tribunal went on to state that Article 31A of the 1977 Order should be read as a whole concluding that the special rates relief at issue is available for a hereditament "in which there is a facility which is required for meeting the needs of a person who resides in the hereditament and who has a disability, including a facility of either of the following descriptions …" The Tribunal took the view that the phrase a facility "including either of the following" should be read as meaning that what followed were examples of facilities that could attract the relief but that the class of facilities was not a closed one. It rejected the Department's submission that the word "including" had no relevance and should be ignored for the purposes of interpreting the legislation.

[9] The Tribunal noted that the legislative provisions in Northern Ireland contained in Article 31A of the 1977 Order differed from the equivalent provisions in England and Wales which were the Rating (Disabled Persons) Act 1978 which was then superseded by the Council Tax (Reductions for Disabilities) Regulations 1992. The Tribunal pointed out that the legislative provisions in England and Wales

required there to be a room as a precondition to the obligation to grant a rebate whereas by contrast "the Northern Ireland Order uses the term 'a facility' not a room." On that basis the Tribunal distinguished the decision of the Court of Appeal in England and Wales in *Howell-Williams v Wirral BC* [1981] LGR 697 and the decision of the High Court in *South Gloucester Council v Titley and Clothier* [2006] EWHC 3117.

[10] The Tribunal considered that the word "facility" should be given its normal and usual meaning so that the ramps satisfied the requirements of Article 31A in that they were "a facility which is required for meeting the needs of a person who resides in the hereditament and who has a disability."

The legislative provisions in this jurisdiction

[11] The Rates (Amendment) (Northern Ireland) Order 1979 inserted Article 31A into the 1977 Order. Article 31A was subsequently amended by Article 17 of the Rates (Amendment) (Northern Ireland) Order 2006. As presently enacted Article 31A under the rubric "Rate rebates for certain hereditaments with special facilities for persons with a disability" provides as follows:

> "(1) Subject to paragraphs (5), (7) and (8), *the Department shall*, in accordance with the provisions of this Article, *grant to the person mentioned in paragraph (4) a rebate from the rates chargeable in respect of a hereditament to which this Article applies*.
>
> (2) *This Article applies to*—
>
> (a) *a hereditament in which there is a facility which is required for meeting the needs of a person who resides in the hereditament and has a disability, including a facility of either of the following descriptions*—
>
> *(i) a room, other than a kitchen, bathroom or lavatory, which is wholly or mainly used (whether for providing therapy or for other purposes) by such a person; or*
>
> *(ii) an additional kitchen, bathroom or lavatory*; and
>
> (b) a hereditament in which there is sufficient floor space to permit the use of a wheelchair used by and required for meeting the needs of a person who resides in the hereditament and has a disability.
>
> (3) In paragraph (2)—

(a) references to a person who resides in a hereditament include references to a person who is usually resident there; and

(b) subject to paragraph (3A), references to a facility or a wheelchair being required for meeting the needs of a person who has a disability are references to its being essential or of major importance to that person's well-being by reason of the nature and extent of the disability.

(3A) A wheelchair is not required for meeting a person's needs if he does not need to use it within the living accommodation comprising or included in the hereditament.

(4) *The person entitled to a rebate under this Article (a 'rebate') is –*

(a) the person with a disability if he is the occupier of the hereditament or makes payments by way of rent in respect of all or any of it; or

(b) any person who is a member of the same household as the person with a disability and either is the occupier of the hereditament or makes such payments as aforesaid.

(5) No rebate shall be granted except on an application made to the Department by the person entitled to the rebate; and any such application shall contain such information as the Department may reasonably require.

(6) Subject to paragraph (7), a rebate shall be granted for such period, being a year or part of a year, as the Department may determine (a "rebate period").

(7) Where the hereditament qualifies for rebate for part only of a rebate period the rebate shall be proportionately reduced and if too large an amount has been paid or allowed by way of rebate the excess shall be recoverable summarily by the Department as a debt.

(8) No rebate shall be granted –

(a) for any period before 1st April 1979; or

(b) except in such circumstances and to such extent as the Department may determine, for any period before the beginning of the year in which the application is made.

(9) A rebate may be granted either by making a payment of the amount of the rebate or, where the person entitled is the occupier of the hereditament, by reducing the rates payable by him.

(10) *The amount of a rebate shall be so much of the rates chargeable in respect of the hereditament for, or properly apportionable to, the rebate period or the relevant part of it as is referable to 25 per cent. of its rateable capital value*.

(11A) If the Department decides that an applicant for a rebate is not entitled to a rebate, it shall serve notice of its decision on the applicant.

(12) Any person who is aggrieved by a decision of the Department under paragraph (11A) may, within twenty-eight days of the service on him of a notice under that paragraph, apply to the Department for a review by the Department of its decision.

(12A) The Department shall serve on that person a notice of the result of the review.

(12B) If that person is dissatisfied with the result of the review, he may appeal to the Valuation Tribunal.

(12C) The Department or any person aggrieved by a decision of the Valuation Tribunal under paragraph (12B) as being erroneous on a point of law may require the Valuation Tribunal to state and sign a case for the Court of Appeal.

(13) Where the person entitled to a rebate under this Article is also entitled to a rebate under the housing benefit scheme in respect of the same hereditament and period, that scheme shall have effect as if the rates chargeable in respect of the hereditament for that period were reduced by the amount of the rebate under this Article.

(14) Where the person entitled to a rebate under this Article is also entitled to a rebate under Article 30A in respect of the same hereditament and period, a rate relief scheme under that Article shall have effect as if the rates chargeable in respect of the

> hereditament for that period were reduced by the amount of the rebate under this Article." (emphasis added)

[12] In so far as relevant to this case it can be seen that the obligation on the Department to grant a rebate from the rates chargeable in respect of the hereditament arises if Article 31A "*applies*." Article 31A(4) provides that the person entitled to the rebate includes the person with a disability if he is the occupier of the hereditament. The amount of the rebate is fixed in accordance with Article 31A(10) at 25% of the rateable capital value of the hereditament for the rebate period and the rebate period is determined in accordance with Article 31A(6) and (7).

[13] There was no issue before the Tribunal or in this court in relation to various aspects of Article 31A. It was agreed that

(a) an hereditament is not confined to the interior of the dwelling so the ramps were "in the hereditament;"

(b) the word "facility" is not defined in the 1977 Order but it is an amenity which enables something to be done so that the ramps are a facility;

(c) Mrs Quinn resides in the hereditament;

(d) She is the occupier of the hereditament;

(e) She has a disability; and

(f) The ramps are essential or of major importance to her well-being by reason of the nature and extent of her disability.

The only issue is whether Article 31A "applies." If it does then Mrs Quinn is entitled to DPA.

[14] For the purposes of this case whether Article 31A applies depends on the true construction of Article 31A(2)(a) which as presently enacted provides that Article 31A applies to:

> "(a) a hereditament in which there is a facility which is required for meeting the needs of a person who resides in the hereditament and has a disability, *including* a facility of *either* of the following descriptions— (i) a room, other than a kitchen, bathroom or lavatory, which is wholly or mainly used (whether for providing therapy or for other purposes) by such a person; or (ii) an additional kitchen, bathroom or lavatory" (emphasis added).

We will refer to the underlined words in Article 31A(2)(a) as "the preceding words." The ramps are not facilities within either 31A(2)(i) or (ii) but they are "a facility" within the preceding words. So the question is whether the descriptions or classes of facilities in (i) and (ii) limit the preceding words and are exhaustive of the types of facility which enable a person to qualify for DPA. The Tribunal considered that the crucial word in Article 31A(2)(a) is "*including*" so that the facilities in (i) and (ii) were

included in the previous description of a facility but they did not provide an exhaustive list of such facilities. The Department relying on context including the purpose of the legislation and also relying on the word "either" contend that the descriptions of the facilities given in (i) and (ii) amount to an exhaustive and definitive list of facilities so that the Tribunal was in error when it found that those facilities were not exhaustive. The Attorney in his helpful notes stated that to achieve the construction sought by the Department the words "including a" would have to be given a meaning equivalent to "which must be a" or a meaning similar to that such as "meaning and including a", "which is a" or "must include a …." It was suggested during the hearing that to achieve the construction sought by the Department the words "including a facility of either" could have been left out.

[15] It is necessary to set out some of the amendments to Article 31A brought about in 2006 by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 amendments").

[16] As originally enacted there was an additional part to Article 31A(2)(a) namely (iii) which was in the following terms:

> "a heating installation for providing heating in two or more rooms."

We will refer to the facility in (iii) as "*the heating installation facility*." If there was such a heating installation facility required for meeting the needs of a disabled person then there was an entitlement to DPA. The legislature no longer wished to provide DPA in respect of heating installation facilities so therefore repealed Article 31A(2)(a)(iii).

[17] As originally enacted there was also an additional part to Article 31A(2) namely (c) which was in the following terms:

> "a hereditament of either of the following descriptions which provides accommodation for a vehicle used by and required for meeting the needs of a disabled person, that is to say, - (i) a hereditament where the disabled person resides which includes a garage or other building or land used otherwise than temporarily for such accommodation; (ii) a hereditament where the disabled person does not reside which consists of or includes such a garage, building or land."

We will refer to the facility in (c) as "*the garage facility*." If there was such a garage facility required for meeting the needs of a disabled person then there was an entitlement to DPA. Again the legislature no longer wished to provide DPA in respect of the garage facility so therefore repealed Article 31A(2)(c).

[18] The Department contends that the policy of the legislation in 2006 was to limit the qualifying facilities by removal of the heating installation facility and of the garage facility. The Department states that if the Tribunal's construction was correct then the repeal in 2006 of Article 31A(2)(a)(iii) and (2)(c) would have been ineffective

as both facilities would still fall within the general words of "a facility which is required for meeting the needs of a person who resides in the hereditament and has a disability."

[19] Another amendment effected in 2006 was to provide that the amount of a rebate was to be 25% of the rateable capital value of the hereditament for the rebate period. As originally enacted Article 31A(10) provided that the amount of a rebate shall "be … so much of the net annual value of the hereditament as is certified by the district valuer as apportioned by him to the facility, floor space or accommodation in question." Article 31A(11) then provided that where the district valuer "certifies that no part of the net annual value of the hereditament is attributable to any facility, floor space or accommodation … no rebate shall be granted." The rationale for this change was not to alter the purpose of the legislation but rather that the calculation of the apportionment had proved to be problematic. The pragmatic solution was to introduce a standard 25% rebate. The Department submits that the overall purpose of the rebate was clear from Article 31A(11) as originally enacted which was to grant a rebate for "rateable facilities" which were required for "meeting the needs of a disabled person." If no part of the net annual value of the hereditament was attributable to the required facility then there was to be no rebate. It was also submitted that the amendment in 2006 was to standardise the rebate to save time and expense but that the purpose of the legislation was not affected. Rather that the rationale behind rate rebates for people with a disability remained the same.

[20] The 2006 amendments also included the following changes:

(a) The word "kitchen" was inserted before "bathroom" in paragraph (2)(a)(ii) of Article 31A;

(b) The terminology of "disabled person" was adjusted to "person who has a disability;"

(c) In Article 31A(2)(a) the phrase "including a facility of *any* of the following descriptions, that is to say…" was amended to "including a facility of *either* of the following descriptions, that is to say…" (emphasis added).

The legislative provisions in England and Wales

[21] The relevant legislative provision in England and Wales is section 1 of the Rating (Disabled Persons) Act 1978 ("the 1978 Act") which was repealed by the Government Local Finance (Repeals, Savings and Consequential Amendments) Order 1990. Section 13 of the Local Government Finance Act 1992 permitted the Secretary of State to make regulations providing for a reduction (in certain circumstances) in the council tax which a person is liable to pay. The relevant regulations made by the Secretary of State are the Council Tax (Reductions for Disabilities) Regulations 1992 (SI 1992/554), as amended. Section 1 of the 1978 Act under the rubric "Rebates for hereditaments with special facilities for disabled persons" provided that "… the rating authority for any area in England and Wales *shall grant a rebate in respect of the rates chargeable on any hereditament which is situated in*

the area and to which this section applies." It can be seen that the drafting technique was that the obligation to grant a rebate arose if "this section applies." The same drafting technique was adopted subsequently in Northern Ireland in 1979 when Article 31A was inserted into the 1977 Order so that the obligation to grant a rebate arose if "this Article applies." However, thereafter there are a number of differences in the drafting technique as between Northern Ireland and England and Wales. We consider that although the legislation in England and Wales has essentially the same purpose as Article 31A it does not give guidance on the present point which is the effective meaning of the word "including" in Article 31A(2)(a).

Legal principles as to statutory construction

[22] In *R (Quintavalle) v Secretary of State for Health* [2003] 2 AC 687 at paragraph [8] Lord Bingham of Cornhill stated that the "basic task of the court is to ascertain and give effect to the true meaning of what Parliament has said in the enactment to be construed." In the same case Lord Millett stated that in "construing a statute the task of the court is to ascertain the intention of Parliament as expressed in the words it has chosen. The Parliamentary intention is to be derived from the terms of the Act as a whole read in its context." However, Lord Bingham went on to enter a qualification by stating "… that is not to say that attention should be confined and a literal interpretation given to the particular provisions which give rise to difficulty." He went on to observe that "(every) statute other than a pure consolidating statute is, after all, enacted to make some change, or address some problem, or remove some blemish, or effect some improvement in the national life." He then defined the court's task, "within the permissible bounds of interpretation, is to give effect to Parliament's purpose." Also in *Quintavalle* Lord Steyn adopted the explanation of the merits of purposive interpretation contained in *Cabell v Markham (1945) 148 F 2d 737* at 739 which was:

> "Of course it is true that the words used, even in their literal sense, are the primary, and ordinarily the most reliable, source of interpreting the meaning of any writing: be it a statute, a contract, or anything else. But it is one of the surest indexes of a mature and developed jurisprudence not to make a fortress out of the dictionary; but to remember that statutes always have some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to their meaning."

[23] In *Dilworth and Others v The Commissioner of Stamps* [1899] A.C. 99 the Privy Council considered the approach to statutory interpretation of Section 2 of the New Zealand Exemption Act, 1883. That was an interpretation clause in relation to charitable bequests which used the word "includes." Lord Watson stated:

> "The word "include" is very generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used these words or phrases must be construed as comprehending, not only such things as they signify according to their natural import, but also those things which the interpretation clause declares that they shall include. But the word "include" is susceptible of another construction, which may become imperative, if the context of the Act is sufficient to show that it was not merely employed for the purpose of adding to the natural significance of the words or expressions defined. It may be equivalent to "mean and include," and in that case it may afford an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to these words or expressions."

It can be seen that Lord Watson considered two potential constructions of the word "include" which were:

(a) very generally the word is used in order to *enlarge* the meaning of words or phrases; but

(b) it is susceptible to another construction in which it is equivalent to "mean and include" so that it may afford *an exhaustive definition* of the meaning of the preceding words.

[24] In *National Asset Management Agency v Commissioner for Environmental Information* [2015] IESC 51 O'Donnell J delivering the judgment of the Irish Supreme Court also considered the meaning of the word "include." At paragraph [31] he stated that "(the) fact that the word "include" can be read to extend the meaning of a class, does not mean it must be so read in every case." At paragraph [32] he stated that "the decision in *Dilworth* makes it clear that the word "include" is ambiguous and must be read in its context …." Then at paragraph [33] in a passage with which we respectfully agree and adopt he stated that:

> "For my own part, I would have thought that the ordinary meaning of "include" is to shut in, enclose, confine, embrace, comprise or contain and comes from the Latin root *claudere* meaning to close or shut. It is thus a statement that the things included are within the term or definition. Where the term or definition is very clear, it may be natural to interpret the word "include" as somehow extending that meaning, since otherwise it would be superfluous. But there are many circumstances in ordinary language where the word "include" is used for

> clarity, to resolve any doubt, or for emphasis. For my part I see merit in the approach of Mazza J in the Canadian case of *Allen v Grenier* (1997) 145 DLR (4th) 286: "'include' as defined in *the Black's Law Dictionary* is a 'term which may, according to context, express an enlargement and have the meaning of *and* or in *addition*, or merely specify a particular thing already included within general words theretofore used'". I do not however seek to make any observation of general application. It is clear to me that in the context in which it is used, the word "include" here was not used to extend the meaning of subparagraphs (a), (b) and (c), but rather to illustrate the type of thing included within the core definition."

[25] We consider that the word "includes" is ambiguous. Its meaning depends on context which includes purpose. It can be used (a) to enlarge or extend a natural meaning; (b) for clarity to resolve any doubt or for emphasis; or (c) to confine by providing an exhaustive definition of the meaning of the preceding words.

[26] It was suggested that the observations in *Dilworth* as to the potential meaning of the word "includes" did not apply in this case as *Dilworth* was concerned with an interpretation clause whereas Article 31A(2)(a) was a clause providing for the application of Article 31A which in turn governed the question as to whether the obligation to grant a rebate arose. We consider that the observations in *Dilworth* apply to this case on the basis that the distinction sought to be drawn in that submission is not of significance. It was also submitted that the word considered in *Dilworth* was "includes" rather than the word "including" which is found in Article 31A(2)(a) and that this was a distinction of significance. However, we consider it to be a distinction without any practical difference.

Discussion

[27] The essential question is what meaning to attribute to the word "including" in Article 31A(2)(a).

[28] We start with what is very generally the meaning of the word "including" which is that it is used as a word of extension in legislative drafting. In this way the meaning of a class is extended or the natural meaning of words are extended to include also those things which are declared to be included. We do not consider that the word "including" is being used as a word of extension in Article 32A(2)(a) as the facilities in (i) and (ii) would in any event fall within the class identified by the preceding words and would in any event fall within the natural meaning of those words.

[29] An alternative meaning of the word "including" is for clarity to resolve any doubt or for emphasis. We do not consider that the word "including" is being used in Article 31A(2)(a) to resolve any doubt as there cannot be any equivocation that the facilities in (i) and (ii) would fall within the natural and ordinary meaning of the preceding words. We also see no point in adding emphasis only to the descriptions in (i) and (ii) if other facilities were meant to be covered by the preceding words.

[30] We are of the view that the word "including" is being used as the equivalent of "meaning and including" so that it is used in a restrictive sense as providing an exhaustive list of the facilities. We arrive at that conclusion for a number of reasons.

[31] First rather than extending the meaning of qualifying facilities there is an exclusive element in (i) and (ii) in that a kitchen, bathroom or lavatory is excluded unless it is "additional." On that basis the descriptions in (i) and (ii) are performing the function of limiting the preceding words. If the preceding words were not limited by the facilities in (i) and (ii) then, for instance a kitchen, which was not additional, could still give rise to Article 31A applying together with the obligation to grant a rebate. We also note that the heating installation facility (which was repealed in 2006) also had an exclusive element so that not only had there to be a heating installation but it also had to provide heating in two or more rooms. If it did not do so then Article 31A did not apply and the obligation to grant a rebate did not arise. Furthermore the garage facility (which was also repealed in 2006) also had an exclusive element in that it excluded temporary use.

[32] Second the amendments in 2006 which resulted in the repeal of the heating installation facility and the garage facility would be ineffective unless the word "including" provides an exhaustive definition of the meaning of the preceding words. If it did not then both a heating installation facility and a garage facility would still fall within the natural and ordinary meaning of the preceding words. In that way the repeal of those two facilities in 2006 would have been to no effect.

[33] Third to resolve the meaning of the word "including" in Article 31A(2)(a) it is permissible to look to the purpose of the legislation and its historical context. We accept that the fundamental purpose of Article 31A is to provide rate relief where a dwelling's rateable value is increased by the facility which is required for meeting the needs of a person who resides in the hereditament and who has a disability. This purpose can be clearly discerned from Article 31A(11) as originally enacted in 1979, for which see paragraph [19]. In short the purpose of Article 31A is to provide a rate rebate which must be referable to rates incurred as a result of the requirement of a facility. Furthermore the mischief that the DPA was designed to remedy was additional space and facilities that result in a higher valuation. In order to discern the purpose Mr Lockhart also relied on the instructions given to the Parliamentary draftsman in relation to the 2006 amendments and upon paragraph 87 of the Department's publication dated 30 July 2004 entitled "Reform of the Domestic Rating System in Northern Ireland – Policy Paper." However, we are content to rely on Article 31A(11) as originally enacted in order to discern the purpose of the

legislation. That purpose articulated in somewhat different terms is that persons with a disability should not be penalised if they need more space and special facilities in their home, which can result in a higher valuation than would otherwise be the case if the space or facilities were not required. The note from the Attorney as amicus did not contend that this was not the purpose of legislation but rather that the policy of the Department had not been faithfully reproduced in the words of Article 31A(2). However, we consider that the purpose would be undermined if any facility falling within the natural and ordinary meaning of the preceding words gave rise to the obligation to grant a rebate. If that was so then, for instance a grab rail in the hallway of a dwelling which had no impact on the rateable value but which was a facility which was required for meeting the needs of a person who resides in the hereditament and who has a disability, could give rise to the obligation to grant a rebate of 25%. That would not be in accordance with the purpose of the legislation but rather would undermine that purpose. We consider that an exhaustive meaning of the word "including" secures the legislative purpose.

Conclusion

[34] We consider that the qualifying facilities in Article 31A(2) of the 1977 Order are limited to those listed in (i) & (ii).

[35] We answer the questions posed in the case stated as follows:

(a) There is a distinction between the word "facility" used in Article 31A and the word "room" used in both the Rating (Disabled Persons) Act 1978 and the Council Tax (Reductions for Disabilities) Regulation 1992.

(b) The policy behind Article 31A of the 1977 Order is to provide rate relief where a dwelling's rateable value is increased by the facility which is required for meeting the needs of a person who resides in the hereditament and who has a disability.

(c) Yes.

(d) This question does not arise.