

**2009 No. 1597**

**RATING AND VALUATION, ENGLAND**

**The Non-Domestic Rating (Deferred Payments) (England)  
Regulations 2009**

<i>Made</i> - - - -	<i>30th June 2009</i>
<i>Laid before Parliament</i>	<i>6th July 2009</i>
<i>Coming into force</i> - -	<i>31st July 2009</i>

The Secretary of State, in exercise of the powers conferred by section 143(1) and (2) and 146(6) of, paragraph 6(5) and (6) of Schedule 8 to, and paragraphs 1 to 4 of Schedule 9 to, the Local Government Finance Act 1988(a), makes the following Regulations:

**Citation, application and commencement**

1. These Regulations, which apply to England only, may be cited as the Non-Domestic Rating (Deferred Payments) (England) Regulations 2009 and come into force on 31st July 2009.

**Amendment of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989**

2.—(1) The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Regulations 1989(b)) are amended as follows.

(2) After regulation 7A (backdated liability: special provision in relation to 2005 rating lists) insert—

**“Deferred payments: special provision in relation to financial years beginning on 1st April 2009, 2010 and 2011**

**7B.** Schedules 1B and 1C, which contain special provision in relation to payments under demand notices relating to financial years beginning on 1st April 2009, 1st April 2010 and 1st April 2011, shall have effect.”.

(3) After Schedule 1A, insert Schedule 1B set out in Schedule 1 to these Regulations.

(4) After Schedule 1B, as inserted by paragraph (3), insert Schedule 1C set out in Schedule 2 to these Regulations.

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(a) 1988 c. 41. Paragraph 1 of Schedule 9 is prospectively amended by Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 (c. 15). Paragraph 2(2)(ga) was inserted by paragraph 44(2) of Schedule 5 to the Local Government and Housing Act 1989 (c. 42); paragraph 2(2)(h) was amended by paragraph 44(3) of that Schedule. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Local Government Finance Act 1988. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

(b) S.I. 1989/1058, to which there are amendments not relevant to these Regulations.

**Amendment of the Non-Domestic Rating (Collection and Enforcement) (Central List) Regulations 1989**

3.—(1) The Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989(a) are amended as follows.

(2) After regulation 7 (payments under demand notices: further provision) insert—

**“Deferred payments: special provision in relation to financial years beginning on the 1st April 2009, 2010 and 2011**

7A. Schedule 1A, which contains special provision in relation to payments under demand notices relating to financial years beginning on 1st April 2009, 1st April 2010 and 1st April 2011, shall have effect.”

(3) Renumber the Schedule as Schedule 1, and after that Schedule, insert Schedule 1A set out in Schedule 3 to these Regulations.

**Modification of the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003**

4. The Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003(b) shall apply in relation to the financial years beginning on 1st April 2010 and 1st April 2011 as if for the definition of “the relevant year” in paragraph (2) of regulation 1 (citation, commencement and interpretation) there were substituted—

““the relevant year”, in relation to a notice, means the financial year to which the demand for payment made by the notice relates; but where, pursuant to regulation 4 (the requirement for demand notices) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as modified by the Non-Domestic Rating (Deferred Payments) (England) Regulations 2009), the notice relates to more than one chargeable financial year “the relevant year” means the financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be);”.

**Modification of the Non-Domestic Rating Contributions (England) Regulations 1992**

5. For the financial year beginning on 1st April 2009, regulation 6 (recalculation of provisional amounts) of the Non-Domestic Rating Contributions (England) Regulations 1992(c) shall have effect as if there were omitted paragraphs (2)(b) and (4).

Signed by authority of the Secretary of State for Communities and Local Government

*Rosie Winterton*  
Minister of State

30th June 2009

Department for Communities and Local Government

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(a) S.I. 1989/2260, to which there are amendments not relevant to these Regulations.  
(b) S.I. 2003/2613, to which there are amendments not relevant to these Regulations.  
(c) S.I. 1992/3082, to which there are amendments not relevant to these Regulations.

**Application and interpretation of Schedule**

1.—(1) Subject to sub-paragraph (2) this Schedule applies where—

(a) the ratepayer—

(i) has been served by the billing authority with a demand notice to which regulation 6(1) applies or a further notice to which regulation 6(3) applies which requires the payment of rates under section 43 or 45 of the Act in respect of the financial year beginning on 1st April 2009; or

(ii) has entered into an agreement with the billing authority under regulation 7(3) which makes provision about payment of the billing authority’s estimate of the amount payable in respect of the financial year beginning on 1st April 2009; and

(b) the ratepayer has served an application on the billing authority concerned no later than 31st March 2010.

(2) Where on or before the day of service of the application the ratepayer has been served with a further notice under regulation 8(1) and the unpaid balance of the estimated amount has become payable under regulation 8(2), the billing authority may decide that this Schedule shall not apply.

(3) Where the billing authority decides that this Schedule shall not apply, it shall serve a notice of its decision on the ratepayer as soon as practicable after the day of service of the application.

(4) In this Schedule—

“actual deferrable amount” has the meaning given in paragraph 13;

“current demand” means the notice mentioned in sub-paragraph (1)(a)(i) or any subsequent notice given under paragraph 7(2) of Schedule 1;

“deferral day” means the day which is 22 days from the day of service of the application mentioned in sub-paragraph (1)(b);

“deferral notice” means a notice served under paragraph 14;

“notional deferrable amount” means the amount calculated under paragraph 5; and

“remaining amount” means the amount calculated under paragraph 4.

**The application**

2.—(1) An application under paragraph 1(1)(b) shall be in the form set out in Schedule 1C or a form to the like effect, shall contain the information there specified and shall be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer.

(2) In sub-paragraph (1) “person authorised to sign on behalf of the ratepayer” means, where the ratepayer is—

(a) a partnership, a partner of that partnership;

(b) a trust, a trustee of that trust;

(c) a body corporate, a director of that body, and

in any other case, a person authorised to sign on behalf of the ratepayer; and

“signature”, “sign” or “signed”, in relation to an application served in accordance with paragraph 3 by electronic communication, includes the incorporation in it, or the logical

association with it, of an electronic signature, as defined in section 7(2) of the Electronic Communications Act 2000(a).

### **Service of applications**

3.—(1) An application under paragraph 1(1)(b) shall be served on the billing authority concerned by—

- (a) addressing it to the authority; and
- (b) delivering it or sending it to the authority's office by post or electronic communication.

(2) Any application sent by electronic communication shall, unless the contrary is proved, be regarded as served when it is received in a legible form.

### **Calculating the remaining amount**

4. The billing authority shall on or as soon as practicable after the day on which the application was served calculate the amount remaining to be paid under the current demand or under the agreement referred to in paragraph 1(1)(a)(ii) in accordance with the formula—

$$A - B$$

where—

- (a) A equals the amount last estimated under regulation 6(1) for the purposes of the current demand or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii); or if pursuant to regulation 4(3) (without modification) the notice or the agreement relates to more than one hereditament the aggregate of the amount of those estimates; and
- (b) B equals the aggregate of any instalments payable under the notice or agreement (whether paid or not) before the deferral day.

### **Calculating the notional deferrable amount**

5.—(1) The billing authority shall on or as soon as practicable after the day on which the application was served calculate the notional deferrable amount.

(2) The notional deferrable amount is the aggregate of the amounts calculated under paragraphs 6 to 11.

### **The RPI increase**

6. The amount to be calculated under this paragraph is that amount which is 3 per cent of the amount last estimated under regulation 6(1) for the purposes of the current demand or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii); or if pursuant to regulation 4(3) the notice or the agreement relates to more than one hereditament, 3 per cent of the aggregate of the amounts estimated for those purposes in relation to the hereditaments concerned.

### **Transition on 31st March 2009: no relief in 2009/10**

7.—(1) Subject to paragraphs 9, 10 and 11, where this paragraph applies, the amount to be calculated under this paragraph is calculated in accordance with the formula—

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(a) 2000 c. 7.

$$(Cx D)x\left(\frac{60}{100}\right)$$

(2) This paragraph applies where—

- (a) on 31st March 2009 (“the relevant day”)—
  - (i) the chargeable amount in respect of the hereditament to which the application relates fell to be calculated in accordance with rules made under section 57A(3)(a) of the Act; or
  - (ii) the hereditament was unoccupied and the relevant day was not a chargeable day for the purposes of section 45 (unoccupied hereditaments: liability) of the Act, but on the last chargeable day (if any) in the financial year beginning on 1st April 2008 preceding the relevant day, the chargeable amount fell to be calculated under rules made under section 57A(3)(a) of the Act; and
- (b) for the purposes of calculating the payments required to be paid in relation to the hereditament under the current notice or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii), section 43(4) of the Act was applied to the calculation for each day to which the notice relates.

**Transition on 31st March 2009: relief in 2009/10**

8.—(1) Subject to paragraphs 9, 10 and 11, where this paragraph applies, the amount to be calculated under this paragraph is to be calculated in accordance with the formula—

$$(Cx D)x\left(\frac{60}{100}\right)x E$$

(2) This paragraph applies where—

- (a) on 31st March 2009 (“the relevant day”)—
  - (i) the chargeable amount in respect of the hereditament to which the application relates fell to be calculated in accordance with rules made under section 57A(3)(a) of the Act; or
  - (ii) the hereditament was unoccupied and the relevant day was not a chargeable day for the purposes of section 45 (unoccupied hereditaments: liability) of the Act, but on the last chargeable day (if any) in the financial year beginning on 1st April 2008 preceding the relevant day the chargeable amount fell to be calculated under rules made under section 57A(3)(a) of the Act; and
- (b) for the purposes of the current demand or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii), the chargeable amount for any day to which the notice or agreement relates was calculated in accordance with sections 43(4A) to (6A) or 47 (discretionary relief), or pursuant to provision made in section 44A (partly occupied hereditaments), in place of the provision made in section 43(4), of the Act.

**Transition: splits before application for deferral**

9.—(1) Where this paragraph applies, paragraphs 7 and 8 shall have effect as if the references in those paragraphs to C were a reference to H.

(2) This paragraph applies where—

- (a) on or after 1st April 2009 the hereditament in respect of which the application was made (“the new hereditament”) came into existence by virtue of—
  - (i) property previously rated as a single hereditament becoming liable to be rated in parts;

- (ii) property previously rated in parts becoming liable to be rated as a single hereditament; or
  - (iii) a hereditament or any part of a hereditament becoming part of a different hereditament; and
- (b) on 31st March 2009 (“the relevant day”) the chargeable amount for the day for the hereditament from which the new hereditament was formed in whole or part (“the old hereditament”) fell to be calculated in accordance with rules made under section 57A(3)(a) of the Act; and
- (c) the new hereditament comprises or incorporates part of a single old hereditament.

**Transition: mergers before application for deferral**

**10.**—(1) Where this paragraph applies, paragraphs 7 and 8 shall have effect as if the references in those paragraphs to C were a reference to M.

(2) This paragraph applies where—

- (a) on or after 1st April 2009 the hereditament in respect of which the application was made (“the new hereditament”) came into existence by virtue of—
  - (i) property previously rated as a single hereditament becoming liable to be rated in parts;
  - (ii) property previously rated in parts becoming liable to be rated as a single hereditament; or
  - (iii) a hereditament or any part of a hereditament becoming part of a different hereditament; and
- (b) on 31st March 2009 (“the relevant day”) the chargeable amount for the day for one or more of the hereditaments from which the new hereditament was formed in whole or part (“the old hereditament”) fell to be calculated in accordance with rules made under section 57A(3)(a) of the Act; and
- (c) the new hereditament comprises or incorporates more than one, or parts of more than one, old hereditament.

**Transition on 31st March 2009: reduction in rateable value before application for deferral**

**11.**—(1) Where this paragraph applies, paragraphs 7 and 8 shall have effect as if the references in those paragraphs to C were a reference to Q.

(2) This paragraph applies where—

- (a) on 31st March 2009 (“the relevant day”)—
  - (i) the chargeable amount in respect of the hereditament to which the application relates fell to be calculated in accordance with rules made under section 57A(3)(a) of the Act; or
  - (ii) the hereditament was unoccupied and the relevant day was not a chargeable day for the purposes of section 45 (unoccupied hereditaments: liability) of the Act, but on the last chargeable day (if any) in the financial year beginning on 1st April 2008 preceding the relevant day the chargeable amount fell to be calculated under rules made under section 57A(3)(a) of the Act; and
- (b) the rateable value for the hereditament to which the application relates shown in the local list for the date of service of the application is less than the rateable value shown in the local list for the hereditament for the relevant day.

**Paragraphs 6 to 11: interpretation**

**12.** For the purposes of paragraphs 6 to 11—

C is the amount by which the chargeable amount for the hereditament for the relevant day (or in a case falling within paragraph 7(2)(a)(ii), 8(2)(a)(ii) or 11(2)(a)(ii), the last chargeable day preceding the relevant day) was reduced because the chargeable amount for that day fell to be calculated under rules made under section 57A(3)(a) of the Act in place of the provisions of section 43(4) to (6A), 44 and 45(4) and (4A) of the Act;

D is the number of days in the financial year beginning on 1st April 2009 to which the current notice or the agreement mentioned in paragraph 1(1)(a)(ii) relates;

E is the amount found in accordance with the formula—

$$\frac{F}{G}$$

F is the amount last estimated under regulation 6(1) in relation to the hereditament for the purposes of the current notice or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii);

G is the amount which would have been the authority's estimate of the amount payable in respect of the hereditament under the current notice or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii) if the chargeable amount for each chargeable day had been calculated in accordance with section 43(4) of the Act;

H is the amount found in accordance with the formula—

$$\frac{(IxJ)}{K}$$

I is the amount of C for the old hereditament, except where the rateable value shown in the local list for the old hereditament for the day before the day the new hereditament came into existence is less than the rateable value shown in the local list for the old hereditament for the relevant day, in which case I (as it relates to the old hereditament) is the amount found in accordance with the formula—

$$\frac{(CxK)}{L}$$

J is the rateable value shown in the local list for the new hereditament on the date of service of the application;

K is the rateable value shown in the local list for the old hereditament for the day before the new hereditament came into existence;

L is the rateable value shown in the local list for the old hereditament for the relevant day;

M is the amount found in accordance with the formula—

$$\frac{(NxJ)}{P}$$

N is the amount found by aggregating I for each of the old hereditaments;

P is the total of the rateable values shown in the local lists for the old hereditaments for the day before the day the new hereditament came into existence;

Q is the amount found in accordance with the formula—

$$Cx\left(\frac{R}{S}\right)$$

R is the rateable value shown in the local list for the hereditament for the date of service of the application; and



S is the rateable value shown in the local list for the hereditament for the relevant day.

### **The actual deferrable amount**

**13.**—(1) Where the remaining amount is less than or equal to the notional deferrable amount, the amount which the ratepayer is eligible to defer (“the actual deferrable amount”) shall be an amount which is equal to the remaining amount.

(2) Where the remaining amount is greater than the notional deferrable amount, the actual deferrable amount shall be an amount which is equal to the notional deferrable amount and the rest of the remaining amount (“the non-deferrable amount”) shall be paid in accordance with paragraph 16.

### **Deferral notice**

**14.**—(1) Where an application relates to the current demand, as soon as practicable after the day of service of the application the billing authority shall serve on the ratepayer a deferral notice stating—

- (a) the amount last estimated under regulation 6(1) for the purposes of the current demand;
- (b) the amount of any remaining instalments calculated in accordance with paragraph 16 (payment of the non-deferrable amount);
- (c) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2010 in accordance with paragraph 19; and
- (d) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2011 in accordance with paragraph 19.

(2) The deferral notice shall be issued at least 7 days before the day on which the first instalment (if any) which relates to payment of the non-deferrable amount is due under it.

(3) Where a deferral notice is issued under this paragraph, no payments of instalments falling due on or after the deferral day under the current demand are payable under that demand.

(4) Regulations 7(3), 7(4) and 8 shall apply to the deferral notice as if it were a demand notice and as if references in those provisions to Schedule 1 were references to this Schedule.

### **Agreements under regulation 7**

**15.** Where an application relates to the agreement mentioned in paragraph 1(1)(a)(ii), the billing authority shall, where the ratepayer so requires, as soon as practicable after the day of service of the application amend the agreement so that the provision made in the agreement accords with the provision made in this Schedule.

### **Payment of the non-deferrable amount**

**16.**—(1) Subject to sub-paragraph (3), the non-deferrable amount calculated pursuant to paragraph 13(2) is to be payable in monthly instalments, the number of such instalments being the same as the number of the instalments specified in the current demand or under the agreement mentioned in paragraph 1(1)(a)(ii) which would, were it not for the provision made in paragraph 14(3), be payable by the ratepayer on or after the deferral day.

(2) Subject to sub-paragraph (3), the amount of each instalment (if there are more than one) shall be calculated in accordance with paragraphs 1(4) and (5) of Schedule 1 as if references in those provisions to the aggregate amount and to the number of instalments were references to the non-deferrable amount and to the number of instalments remaining to be paid mentioned in sub-paragraph (1).



(3) If amounts calculated in accordance with sub-paragraph (2) would produce an amount for an instalment of less than £50, the demand notice may require the non-deferrable amount to be paid—

- (a) where the non-deferrable amount is less than £100, in a single instalment payable on such day as is specified in the notice, or
- (b) where the non-deferrable amount is equal to or greater than £100, by a number of monthly instalments equal to the greatest whole number by which £50 can be multiplied to give a product which is less than or equal to the non-deferrable amount.

### **Cessation of instalments**

17. Paragraph 6 (and so far as applicable paragraph 8) of Part II of Schedule 1 shall apply to the deferral notice as if it were a demand notice.

### **Adjustments during the financial year beginning on 1st April 2009**

18.—(1) This paragraph applies where—

- (a) a deferral notice has been served on a ratepayer under paragraph 14;
- (b) on a day falling within the financial year beginning on 1st April 2009 (“the relevant day”) any factor or assumption used to determine the notional deferrable amount or the actual deferrable amount, or by reference to which the estimate of the amount mentioned in paragraph 14(1)(a) was made, is shown to be false; and
- (c) on the relevant day the conditions mentioned in section 43(1) or those mentioned in section 45(1) of the Act are fulfilled as regards the ratepayer and the hereditament to which the deferral notice relates.

(2) The billing authority shall, on or as soon as practicable after the relevant day—

- (a) make a revised estimate of the amount payable for the financial year beginning on 1st April 2009 in relation to the hereditament on the assumption mentioned in regulation 6(1) and as if the notice mentioned in that provision were the notice mentioned in sub-paragraph (e);
- (b) recalculate the notional deferrable amount;
- (c) recalculate the actual deferrable amount and the non-deferrable amount under paragraph 13;
- (d) adjust the instalments (if any) payable in the financial year beginning on 1st April 2009 on or after the adjustment day (“the remaining instalments”) so that they accord with the amounts mentioned in sub-paragraph (3); and
- (e) serve a notice on the ratepayer which must state—
  - (i) the amount of the revised estimate mentioned in sub-paragraph (a);
  - (ii) the amount of any remaining instalment;
  - (iii) the amount of the deferrable amount payable in the financial year beginning on 1st April 2010 under paragraph 19; and
  - (iv) the amount of the deferrable amount payable in the financial year beginning on 1st April 2011 under paragraph 19.

(3) The aggregate amount of the remaining instalments payable shall be equal to the amount by which the revised non-deferrable amount calculated under sub-paragraph (2)(c) exceeds the aggregate amount of the instalments payable under the notice before the adjustment day; and the amount of each remaining instalment (if there are more than one) shall be calculated in accordance with paragraph 1(4) and (5) of Schedule 1 as if references in those provisions to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively.

(4) If the revised non-deferrable amount calculated under sub-paragraph (2)(c) exceeds the aggregate amount of the instalments payable under the notice before the adjustment day, but no instalments are payable under it on or after that day, the amount of the excess shall be due from the ratepayer to the billing authority in a single instalment on the expiry of such period (being not less than 14 days) after the day of service of the notice served under sub-paragraph (2)(e) as is specified in it; and if in any case the revised non-deferrable amount is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment in respect of any liability of the ratepayer under Part II of these Regulations—

- (a) shall be repaid if the ratepayer so requires; or
- (b) in any other case shall either (as the billing authority determines) be repaid or credited against any subsequent liability of the ratepayer to pay anything to the authority by way of non-domestic rate.

(5) Where a further adjustment falls to be made under this paragraph after the service of a notice under sub-paragraph (2)(e)—

- (a) this paragraph shall apply as if (so far as the context permits) references to the deferral notice and to amounts in respect of instalments payable under it were references to the notice under sub-paragraph (2)(e) and to amounts in respect of instalments payable under it, as previously adjusted under this paragraph; and
- (b) in calculating the aggregate amount of instalments payable under a notice before the adjustment day, there shall not count as so payable any amount in respect of such instalments which has fallen to be repaid (or credited) under paragraph 10(4) of Schedule 7 to the Act or (on the occasion of the service of a previous notice under sub-paragraph 2(e)) under sub-paragraph (4), or has been paid or credited by way of interest under the Non-Domestic Rating (Payment of Interest) Regulations 1990(a).

(6) In this paragraph “the adjustment day” means the day 14 days after the day the notice served under sub-paragraph (2)(e) is issued.

#### **Payment of the actual deferrable amount**

**19.—**(1) The actual deferrable amount shall be payable in equal proportions in the financial years beginning on 1st April 2010 and 1st April 2011.

(2) The amount payable in each year (“the relevant proportion”) is to be payable in monthly instalments and, subject to sub-paragraph (3), paragraphs 1(2) to (5), 2, 3 and 4 of Schedule 1 shall apply to the actual deferrable amount as if references in those provisions to the aggregate amount and the relevant year were references to the relevant proportion and the financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be) respectively.

(3) Where a notice under this paragraph is served pursuant to provision made in regulation 4(3), as substituted by paragraph 23, the number and date of the instalments which relate to payment of the actual deferrable amount shall be equal to the number and date of the instalments payable under the demand notice which relate to the amount payable in respect of the chargeable financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be); and paragraph 3 of Schedule 1 shall not apply when calculating the instalments payable in respect of the actual deferrable amount.

(4) Before, on or as soon as practicable after 1st April 2010 or 1st April 2011 (as the case may be) the billing authority shall serve a notice on the ratepayer which must state—

- (a) the relevant proportion for the year;
- (b) the amount of any instalment; and

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(a) S.I 1990/1904, to which there are amendments not relevant to these Regulations.

- (c) in the case of a notice served in relation to the financial year beginning on 1st April 2010, the relevant proportion payable in the financial year beginning on 1st April 2011.

(5) Where instalments payable in respect of the actual deferrable amount are calculated pursuant to provision made in sub-paragraph (3), and the billing authority receives payment in a month in respect of which instalments are due under the notice of an amount which is less than the aggregate amount of the instalments due under the notice in respect of that month, the payment shall be applied to those instalments in the following order—

- (a) if the payment is equal to either of the instalments due in that month, to that instalment; and
- (b) in any other case, to the instalment due in respect of the actual deferrable amount first and the remainder (if any) to the instalment due in that month payable in respect of the financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be).

### **Modification of regulation 8**

**20.** Where a billing authority has served a notice under paragraph 19(4), regulation 8 (failure to pay instalments) shall have effect as regards the actual deferrable amount as if, for paragraph (1) of that regulation there were substituted—

“(1) Where—

- (a) a demand notice has been served by a billing authority on a ratepayer,
- (b) instalments are payable under the notice in accordance with Schedule 1 or Schedule 1B, and
- (c) any such instalment is not paid in accordance with Schedule 1 or, as the case may be, Schedule 1B,

the billing authority shall (unless all the instalments have fallen due) serve a further notice on the ratepayer stating the instalments required to be paid.”;

and regulation 8 and Part 3 of these Regulations shall be construed accordingly.

### **Cessation of instalments during 2010/11 or 2011/12**

**21.**—(1) Subject to sub-paragraph (2), paragraph 6 (and so far as applicable paragraph 8) of Part II of Schedule 1 shall apply to a notice served under paragraph 19(4) as if it were a demand notice and as if references in those paragraphs to “the relevant year” were references to the financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be).

(2) Paragraph 6 of Schedule 1 shall have effect as if for sub-paragraph (3) there were substituted—

“(3) The billing authority shall on the relevant day or as soon as practicable after that day serve a notice on the ratepayer stating the outstanding amount payable in respect of the financial year beginning on 1st April 2009 in relation to the hereditament.”.

### **Adjustment of instalments during 2010/11 or 2011/12**

**22.**—(1) This paragraph applies where—

- (a) a notice has been served on a ratepayer in accordance with paragraph 19;
- (b) on a day (“the relevant day”) any factor or assumption by reference to which the estimate of the amount mentioned in paragraph 14(1)(a) (for the purposes of the deferral notice) or the revised estimate mentioned in paragraph 18(2)(a) was made is shown to be false; and

- (c) on the relevant day the conditions mentioned in section 43(1) or those mentioned in section 45(1) of the Act are fulfilled as regards the ratepayer and the hereditament to which the deferral notice relates.
- (2) The billing authority shall, on or as soon as practicable after the relevant day—
- (a) adjust the amounts mentioned in paragraph 19(4) payable under the notice on or after the adjustment day (“the remaining amounts”) so that they accord with the amount mentioned in sub-paragraph (4); and
  - (b) serve a notice on the ratepayer which must state—
    - (i) the revised amount for which provision is made by sub-paragraph (3);
    - (ii) the amount of any remaining instalment; and
    - (iii) in the case of a notice which was served in relation to the financial year beginning on 1st April 2010, the revised amount payable in the financial year beginning on 1st April 2011.
- (3) The revised amount mentioned in sub-paragraph (2)(b)(i) is the amount payable for the financial year beginning on 1st April 2009 in relation to the hereditament.
- (4) The aggregate amount of the remaining amounts payable shall be equal to the amount by which the revised amount exceeds the aggregate amount of the instalments payable under the notice before the adjustment day.
- (5) If the revised amount exceeds the aggregate amount of the instalments payable under the notice before the adjustment day, but nothing is payable under it on or after that day, the amount of the excess shall be due from the ratepayer to the billing authority in a single instalment on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under sub-paragraph (2)(b) as is specified in it; and if in any case the revised amount is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment in respect of any liability of the ratepayer under Part II of these Regulations—
- (a) shall be repaid if the ratepayer so requires; or
  - (b) in any other case shall either (as the billing authority determines) be repaid or credited against any subsequent liability of the ratepayer to pay anything to the authority by way of non-domestic rate.
- (6) In this paragraph “the adjustment day” means the day 14 days after the day the notice served under sub-paragraph (2)(b) is issued.

**Substitution of regulation 4**

23. Where this Schedule applies and the billing authority is required by these regulations to serve a demand notice on the ratepayer in respect of chargeable financial years beginning on 1st April 2010 or 1st April 2011, these Regulations shall have effect as if for regulation 4 (the requirement for demand notices) there were substituted—

“(1) For each chargeable financial year a billing authority shall, in accordance with regulations 5 to 7, serve a notice in writing on every ratepayer of the authority in relation to the year.

(2) Subject to paragraph (3), different demand notices shall be served for different chargeable financial years.

(3) Where a deferral notice under paragraph 14 of Schedule 1B has been served on a ratepayer, a single demand notice may be served on the ratepayer in respect of the hereditament to which that notice relates, which relates to the amount payable in respect of the chargeable financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be) and to the payment of deferred rates in respect of the financial year beginning on 1st April 2009 in accordance with paragraph 19 of Schedule 1B.

(4) If, pursuant to paragraph (3), a single demand notice relates to different chargeable financial years, the amounts due under it, and the times at which they fall due, shall be determined as if separate notices were issued.

(5) A demand notice shall be served with respect to the amount payable for every hereditament as regards which a person is a ratepayer of the authority, though a single notice may relate to the amount payable with respect to more than one such hereditament.

(6) If a single demand notice relates to the amount payable with respect to more than one hereditament, then subject to paragraphs 5 and 8 of Schedule 1, the amounts due under it, and the times at which they fall due, shall be determined as if separate notices were issued in respect of each hereditament.”.”

“SCHEDULE 1C

Form \*\*\*

FORM OF APPLICATION

1. State name, address, facsimile number (where applicable), telephone number and electronic mail address (where applicable) of the ratepayer—

2. Give the full address of the hereditament (or if more than one, the hereditaments) situated within the billing authority’s area for which deferral is sought—

**Declaration**

As the ratepayer I wish to apply for deferral of payment of business rates payable in respect of the financial year beginning on 1st April 2009

(Signature of the ratepayer / person authorised to sign)

(Capacity of person signing)

**Notes**

This form may be used for an application for deferral of payment of non-domestic rates payable in respect of the financial year beginning on 1st April 2009.

Deferral may be applied for in respect of all properties in respect of which non-domestic rates are payable in the financial year beginning on 1st April 2009.

Where the ratepayer occupies more than one property within the area of the billing authority, a single form should be used to apply for deferral in respect of all of those properties.

To be automatically eligible for deferral ratepayers must satisfy the following conditions:

(a) they must make an application for deferral to their local authority on or before 31st March 2010;

(b) they must not have discharged their 2009/10 rates liability in full or be due to discharge their 2009/10 liability in full within 21 days of making their application; and

(c) they must not have lost the right to pay their 2009/10 rates bill by instalments by or on the date of service of the application.

Where they have lost that right, it is for the billing authority to decide whether to process the application and grant deferral.

The application must be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer.

Ratepayers should be aware that where payment of non-domestic rates payable in respect of the financial year beginning on 1st April 2009 is deferred and subsequently the ratepayer ceases to occupy the property to which the deferral applies, the full outstanding liability in respect of the 2009 financial year will become due and the deferral will cease to have effect.

Similarly, where a ratepayer fails to pay any instalment due in respect of the 2009 financial year, the billing authority serves a notice in accordance with regulation 8(1) of the Non-Domestic Rating (Collection and Enforcement) (Local List) Regulations 1989 and subsequently the ratepayer loses their right to pay by instalments, the deferral will cease to have effect.

”

## SCHEDULE 3

Regulation 3

## “SCHEDULE 1A

Regulation 7A

### **Application and interpretation of this Schedule**

1.—(1) Subject to sub-paragraph (2) this Schedule applies where—

(a) the ratepayer—

(i) has been served by the Secretary of State with a demand notice to which regulation 6(1) applies or a further notice to which regulation 6(3) applies which requires the payment of rates under section 54 of the Act in respect of the financial year beginning on 1st April 2009; or

(ii) has entered into an agreement with the Secretary of State under regulation 7(3) which makes provision about payment of the Secretary of State’s estimate of the amount payable in respect of the financial year beginning on 1st April 2009; and

(b) the ratepayer has served an application on the Secretary of State no later than 31st March 2010.

(2) Where on or before the day of service of the application the ratepayer has been served with a further notice under regulation 8(1) and the unpaid balance of the estimated amount has become payable under regulation 8(2), the Secretary of State may decide that this Schedule shall not apply.

(3) Where the Secretary of State decides that this Schedule shall not apply, the Secretary of State shall serve a notice of that decision on the ratepayer as soon as practicable after the day of service of the application.

(4) In this Schedule—

“actual deferrable amount” has the meaning given in paragraph 12;

“current demand” means the notice mentioned in sub-paragraph (1)(a)(i) or any subsequent notice given under paragraph 7(2) of Schedule 1;

“deferral day” means the day which is 22 days from the day of service of the application mentioned in sub-paragraph (1)(b);

“deferral notice” means a notice served under paragraph 13;

“notional deferrable amount” means the amount calculated under paragraph 5; and

“remaining amount” means the amount calculated under paragraph 4.

### **The application**

2.—(1) An application under paragraph 1(1)(b) shall be made in writing and shall be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer.

(2) In sub-paragraph (1) “person authorised to sign on behalf of the ratepayer” means, where the ratepayer is—

(a) a partnership, a partner of that partnership;

(b) a trust, a trustee of that trust;

(c) a body corporate, a director of that body, and

in any other case, a person authorised to sign on behalf of the ratepayer; and



“signature”, “sign” or “signed”, in relation to an application served in accordance with paragraph 3 by electronic communication, includes the incorporation in it, or the logical association with it, of an electronic signature, as defined in section 7(2) of the Electronic Communications Act 2000(a).

### **Service of applications**

3.—(1) An application under paragraph 1(1)(b) shall be served on the Secretary of State by—

- (a) addressing it to the Secretary of State; and
- (b) delivering it or sending it to the Secretary of State by post or electronic communication.

(2) Any application sent by electronic communication shall, unless the contrary is proved, be regarded as served when it is received in a legible form.

### **Calculating the remaining amount**

4. The Secretary of State shall on or as soon as practicable after the day on which the application was served calculate the amount remaining to be paid under current demand or under the agreement referred to in sub-paragraph 1(1)(a)(ii) in accordance with the formula—

$$A - B$$

where—

- (a) A equals the amount last estimated under regulation 6(1) for the purposes of the current demand or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii); and
- (b) B equals the aggregate of any instalments payable under the notice or agreement (whether paid or not) before the deferral day.

### **Calculating the notional deferrable amount**

5.—(1) The Secretary of State shall on or as soon as practicable after the day on which the application was served calculate the notional deferrable amount.

(2) The notional deferrable amount is the aggregate of the amounts calculated under paragraphs 6 to 10.

### **The RPI increase**

6. The amount to be calculated under this paragraph is that amount which is 3 per cent of the amount last estimated under regulation 6(1) for the purposes of the current demand or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii).

### **Transition on 31st March 2009**

7.—(1) Subject to paragraphs 8, 9 and 10, where this paragraph applies, the amount calculated in accordance with the formula—

$$(Cx D)x \left( \frac{60}{100} \right)$$

(2) This paragraph applies where—

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(a) 2000 c. 7.

- (a) on 31st March 2009 (“the relevant day”) the chargeable amount in respect of one or more of the hereditaments to which the application relates fell to be calculated in accordance with rules made under section 57A(3)(a) of the Act; and
- (b) for the purposes of calculating the payments required to be paid in relation to the hereditament for the purposes of the current notice or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii), section 54(4) to (7) of the Act was applied to the calculation for each day to which the notice relates.

**Transition: splits before application for deferral**

8.—(1) Where this paragraph applies, paragraph 7 shall have effect as if the reference in that paragraph to C were a reference to E.

(2) This paragraph applies where—

- (a) on or after 1st April 2009 a hereditament in respect of which the application was made (“the new hereditament”) came into existence by virtue of—
  - (i) property previously rated as a single hereditament becoming liable to be rated in parts;
  - (ii) property previously rated in parts becoming liable to be rated as a single hereditament; or
  - (iii) a hereditament or any part of a hereditament becoming part of a different hereditament; and
- (b) on 31st March 2009 (“the relevant day”) the chargeable amount for the day for the hereditament from which the new hereditament was formed in whole or part (“the old hereditament”) fell to be calculated in accordance with rules made under section 57A(3)(a) of the Act; and
- (c) the new hereditament comprises or incorporates part of a single old hereditament.

**Transition: mergers before application for deferral**

9.—(1) Where this paragraph applies, paragraph 7 shall have effect as if the reference in that paragraph to C were a reference to J.

(2) This paragraph applies where—

- (a) on or after 1st April 2009 a hereditament in respect of which the application was made (“the new hereditament”) came into existence by virtue of—
  - (i) property previously rated as a single hereditament becoming liable to be rated in parts;
  - (ii) property previously rated in parts becoming liable to be rated as a single hereditament; or
  - (iii) a hereditament or any part of a hereditament becoming part of a different hereditament; and
- (b) on 31st March 2009 (“the relevant day”) the chargeable amount for the day for one or more of the hereditaments from which the new hereditament was formed in whole or part (“the old hereditament”) fell to be calculated in accordance with rules made under section 57A(3)(a) of the Act; and
- (c) the new hereditament comprises or incorporates more than one, or parts of more than one, old hereditament.

**Transition on 31st March 2009: reduction in rateable value before application for deferral**

10.—(1) Where this paragraph applies, paragraph 7 shall have effect as if the reference in that paragraph to C were a reference to M.

(2) This paragraph applies where—

- (a) on 31st March 2009 (“the relevant day”) the chargeable amount in respect of one or more of the hereditaments to which the application relates fell to be calculated in accordance with rules made under section 57A(3)(a) of the Act;
- (b) the rateable value for one or more of the hereditaments shown in the central list for the date of service of the application is less than the rateable value shown for the relevant day; and
- (c) for the purposes of calculating the payments required to be paid in relation to the hereditament for the purposes of the current notice or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii), section 54(4) to (7) of the Act was applied to the calculation for each day to which the notice relates.

### Paragraphs 7 to 10: interpretation

11. For the purposes of paragraphs 7 to 10—

C is the amount by which the chargeable amount for the hereditament for the relevant day was reduced because the chargeable amount for that day fell to be calculated under rules made under section 57A(3)(a) of the Act in place of the provisions of section 54(4) to (7) of the Act;

D is the number of days in the financial year beginning on 1st April 2009 to which the current notice or the agreement mentioned in paragraph 1(1)(a)(ii) relates;

E is the amount found in accordance with the formula—

$$\frac{(FxG)}{H}$$

F is the amount of C for the old hereditament, except where the rateable value shown in the central list for the old hereditament for the day before the day the new hereditament came into existence is less than the rateable value shown in the central list for the old hereditament for the relevant day, in which case F (as it relates to the old hereditament) is the amount found in accordance with the formula—

$$\frac{(CxH)}{I}$$

G is the rateable value shown in the central list for the new hereditament on the date of service of the application;

H is the rateable value shown in the central list for the old hereditament for the day before the day the new hereditament came into existence;

I is the rateable value for the old hereditament shown in the central list for the relevant day;

J is the amount found in accordance with the formula—

$$\frac{(KxG)}{L}$$

K is the amount found by aggregating F for each of the old hereditaments;

L is the total of the rateable values shown in the central list for the old hereditaments for the day before the day the new hereditament came into existence;

M is the amount found in accordance with the formula—

$$Cx\left(\frac{N}{P}\right)$$

N is the rateable value shown in the central list for the hereditament for the date of service of the application; and

P is the rateable value shown in the central list for the hereditament for the relevant day.

### **The actual deferrable amount**

**12.**—(1) Where the remaining amount is less than or equal to the notional deferrable amount, the amount which the ratepayer is eligible to defer (“the actual deferrable amount”) shall be an amount which is equal to the remaining amount.

(2) Where the remaining amount is greater than the notional deferrable amount, the actual deferrable amount shall be an amount which is equal to the notional deferrable amount and the rest of the remaining amount (“the non-deferrable amount”) shall be paid in accordance with paragraph 15.

### **Deferral notice**

**13.**—(1) Where an application relates to the current demand, as soon as practicable after the day of service of the application the Secretary of State shall serve on the ratepayer a deferral notice stating—

- (a) the amount last estimated under regulation 6(1) for the purposes of the current demand;
- (b) the amount of any remaining instalments calculated in accordance with paragraph 15 (payment of the non-deferrable amount);
- (c) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2010 in accordance with paragraph 18; and
- (d) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2011 in accordance with paragraph 18.

(2) The deferral notice shall be issued at least 7 days before the day on which the first instalment (if any) which relates to payment of the non-deferrable amount is due under it.

(3) No payments of instalments falling due on or after the deferral day under the current demand are payable under that demand.

(4) Regulations 7(3), 7(4) and 8 shall apply to the deferral notice as if it were a demand notice and as if references in those provisions to Schedule 1 were references to this Schedule.

### **Agreements under regulation 7**

**14.** Where an application relates to the agreement mentioned in paragraph 1(1)(a)(ii) the Secretary of State shall, where the ratepayer so requires, amend the agreement so that the provision made in the agreement accords with the provision made in this Schedule.

### **Payment of the non-deferrable amount**

**15.**—(1) Subject to sub-paragraph (3), the non-deferrable amount calculated pursuant to paragraph 12(2) is to be payable in monthly instalments, the number of such instalments being the same as the number of the instalments specified in the current demand or under the agreement mentioned in paragraph 1(1)(a)(ii) which would, were it not for the provision made in paragraph 13(3), be payable by the ratepayer on or after the deferral day.

(2) Subject to sub-paragraph (3), the amount of each instalment (if there are more than one) shall be calculated in accordance with paragraphs 1(4) and (5) of Schedule 1 as if references in those provisions to the aggregate amount and to the number of instalments were references to the non-deferrable amount and to the number of instalments remaining to be paid mentioned in sub-paragraph (1).

(3) If amounts calculated in accordance with sub-paragraph (2) would produce an amount for an instalment of less than £50, the demand notice may require the non-deferrable amount to be paid—

- (a) where the non-deferrable amount is less than £100, in a single instalment payable on such day as is specified in the notice, or
- (b) where the non-deferrable amount is equal to or greater than £100, by a number of monthly instalments equal to the greatest whole number by which £50 can be multiplied to give a product which is less than or equal to the non-deferrable amount.

### **Cessation of instalments**

16. Paragraph 6 (and so far as applicable paragraph 8) of Part II of Schedule 1 shall apply to the deferral notice as if it were a demand notice.

### **Adjustments during the financial year beginning on 1st April 2009**

17.—(1) This paragraph applies where—

- (a) a deferral notice has been served on a ratepayer under paragraph 13;
- (b) on a day falling within the financial year beginning on 1st April 2009 (“the relevant day”) any factor or assumption used to determine the notional deferrable amount or the actual deferrable amount, or by reference to which the estimate of the amount mentioned in paragraph 13(1)(a) was made, is shown to be false; and
- (c) on the relevant day the ratepayer’s name is shown in the central list.

(2) The Secretary of State shall, on or as soon as practicable after the relevant day—

- (a) make a revised estimate of the amount payable for the financial year beginning on 1st April 2009 in relation to the ratepayer on the assumption mentioned in regulation 6(1) and as if the notice mentioned in that provision were the notice mentioned in sub-paragraph (e);
- (b) recalculate the notional deferrable amount;
- (c) recalculate the actual deferrable amount and the non-deferrable amount under paragraph 12;
- (d) adjust the instalments (if any) payable in the financial year beginning on 1st April 2009 on or after the adjustment day (“the remaining instalments”) so that they accord with the amounts mentioned in sub-paragraph (3); and
- (e) serve a notice on the ratepayer which must state—
  - (i) the amount of the revised estimate mentioned in sub-paragraph (a);
  - (ii) the amount of any remaining instalment;
  - (iii) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2010 under paragraph 18; and
  - (iv) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2011 under paragraph 18.

(3) The aggregate amount of the remaining instalments payable shall be equal to the amount by which the revised non-deferrable amount calculated under sub-paragraph (2)(c) exceeds the aggregate amount of the instalments payable under the notice before the adjustment day; and the amount of each remaining instalment (if there are more than one) shall be calculated in accordance with paragraph 1(4) and (5) of Schedule 1 as if references in those provisions to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively.

(4) If the revised non-deferrable amount calculated under sub-paragraph (2)(c) exceeds the aggregate amount of the instalments payable under the notice before the adjustment day,

but no instalments are payable under it on or after that day, the amount of the excess shall be due from the ratepayer to the Secretary of State in a single instalment on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under sub-paragraph (2)(e) as is specified in it; and if in any case the revised non-deferrable amount is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment in respect of any liability of the ratepayer under Part II of these Regulations—

- (a) shall be repaid if the ratepayer so requires; or
- (b) in any other case shall either (as the Secretary of State determines) be repaid or credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State by way of non-domestic rate.

(5) Where a further adjustment falls to be made under this paragraph after the service of a notice under sub-paragraph (2)(e)—

- (a) this paragraph shall apply as if (so far as the context permits) references to the deferral notice and to amounts in respect of instalments payable under it were references to the notice under sub-paragraph (2)(e) and to amounts in respect of instalments payable under it, as previously adjusted under this paragraph; and
- (b) in calculating the aggregate amount of instalments payable under a notice before the adjustment day, there shall not count as so payable any amount in respect of such instalments which has fallen to be repaid (or credited) under sub-paragraph (4), or has been paid or credited by way of interest under the Non-Domestic Rating (Payment of Interest) Regulations 1990(a).

(6) In this paragraph “the adjustment day” means the day 14 days after the day the notice served under sub-paragraph (2)(e) is issued.

#### **Payment of the actual deferrable amount**

**18.—**(1) The actual deferrable amount shall be payable in equal proportions in the financial years beginning on 1st April 2010 and 1st April 2011.

(2) The amount payable in each year (“the relevant proportion”) is to be payable in monthly instalments and, subject to sub-paragraph (3), paragraphs 1(2) to (5), 2, 3 and 4 of Schedule 1 shall apply to the actual deferrable amount as if references in those provisions to the aggregate amount and the relevant year were references to the relevant proportion and the financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be) respectively.

(3) Where a notice under this paragraph is served pursuant to provision made in regulation 4(3), as substituted by paragraph 22, the number and date of the instalments which relate to payment of the deferrable amount shall be equal to the number and date of the instalments payable under the demand notice which relate to the amount payable in respect of the chargeable financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be); and paragraph 3 of Schedule 1 shall not apply when calculating the instalments payable in respect of the actual deferrable amount.

(4) Before, on or as soon as practicable after 1st April 2010 or 1st April 2011 (as the case may be) the Secretary of State shall serve a notice on the ratepayer which must state—

- (a) the relevant proportion for the year;
- (b) the amount of any instalment; and
- (c) in the case of a notice served in relation to the financial year beginning on 1st April 2010, the relevant proportion payable in the financial year beginning on 1st April 2011.

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(a) S.I 1990/1904, to which there are amendments not relevant to these Regulations.

(5) Where instalments payable in respect of the actual deferrable amount are calculated pursuant to provision made in sub-paragraph (3), and the Secretary of State receives payment in a month in respect of which instalments are due under the notice of an amount which is less than the aggregate amount of the instalments due under the notice in respect of that month, the payment shall be applied to those instalments in the following order—

- (a) if the payment is equal to either of the instalments due in that month, to that instalment; and
- (b) in any other case, to the instalment due in respect of the actual deferrable amount first and the remainder (if any) to the instalment due in that month payable in respect of the financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be).

### **Modification of regulation 8**

**19.** Where the Secretary of State has served a notice under paragraph 18(4), regulation 8 (failure to pay instalments) shall have effect as regards the actual deferrable amount as if, for paragraph (1) of that regulation there were substituted—

“(1) Where—

- (a) a demand notice has been served by the Secretary of State on a ratepayer,
- (b) instalments are payable under the notice in accordance with Schedule 1 or Schedule 1A, and
- (c) any such instalment is not paid in accordance with Schedule 1 or, as the case may be, Schedule 1A,

the Secretary of State shall (unless all the instalments have fallen due) serve a further notice on the ratepayer stating the instalments required to be paid.”;

and regulations 8, 9 and 10 shall be construed accordingly.

### **Cessation of instalments during 2010/11 or 2011/12**

**20.**—(1) Subject to sub-paragraph (2), paragraph 6 (and so far as applicable paragraph 8) of Part II of Schedule 1 shall apply to a notice issued under paragraph 18(4) as if it were a demand notice and as if references in those paragraphs to “the relevant year” were references to the financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be).

(2) Paragraph 6 of Schedule 1 shall have effect as if for sub-paragraph (3) there were substituted—

“(3) The Secretary of State shall on the relevant day or as soon as practicable after that day serve a notice on the ratepayer stating the outstanding amount payable in respect of the financial year beginning on 1st April 2009 in relation to the hereditament.”.

### **Adjustment of instalments during 2010/11 or 2011/12**

**21.**—(1) This paragraph applies where—

- (a) a notice has been served on a ratepayer in accordance with paragraph 18;
- (b) on a day (“the relevant day”) any factor or assumption by reference to which the estimate of the amount mentioned in paragraph 13(1)(a) (for the purposes of the deferral notice) or the revised estimate mentioned in paragraph 17(2)(a) was made is shown to be false; and
- (c) on the relevant day the ratepayer’s name is shown in the central list.

(2) The Secretary of State shall, on or as soon as practicable after the relevant day—



- (a) adjust the amounts mentioned in paragraph 18(4) payable under the notice on or after the adjustment day (“the remaining amounts”) so that they accord with the amount mentioned in sub-paragraph (4); and
- (b) serve a notice on the ratepayer which is to state—
  - (i) the revised amount for which provision is made in sub-paragraph (3);
  - (ii) the amount of any remaining instalment; and
  - (iii) in the case of a notice which was served in relation to the financial year beginning on 1st April 2010, the revised amount payable in the financial year beginning on 1st April 2011.

(3) The revised amount mentioned in sub-paragraph (2)(b)(i) is the revised amount payable for the financial year beginning on 1st April 2009 in relation to the hereditament.

(4) The aggregate amount of the remaining amounts payable shall be equal to the amount by which the revised amount exceeds the aggregate amount of the instalments payable under the notice before the adjustment day.

(5) If the revised amount exceeds the aggregate amount of the instalments payable under the notice before the adjustment day, but nothing is payable under it on or after that day, the amount of the excess shall be due from the ratepayer to the Secretary of State in a single instalment on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under sub-paragraph (2)(b) as is specified in it; and if in any case the revised amount is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment in respect of any liability of the ratepayer under Part II of these Regulations—

- (a) shall be repaid if the ratepayer so requires; or
- (b) in any other case shall either (as the Secretary of State determines) be repaid or credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State by way of non-domestic rate.

(6) In this paragraph “the adjustment day” means the day 14 days after the day the notice served under sub-paragraph (2)(b) is issued.

#### **Substitution of regulation 4**

**22.** Where this Schedule applies and the Secretary of State is required by these Regulations to serve a demand notice on the ratepayer in respect of chargeable financial years beginning on 1st April 2010 or 1st April 2011, these Regulations shall have effect as if for regulation 4 (the requirement for demand notices) there were substituted—

“(1) For each chargeable financial year the Secretary of State shall, in accordance with regulations 5 to 7, serve a notice in writing on every ratepayer in relation to the year.

(2) Subject to paragraph (3), different demand notices shall be served for different chargeable financial years.

(3) Where a deferral notice under paragraph 13 or a subsequent notice under paragraph 17(2)(e) of Schedule 1A has been served on a ratepayer, a single demand notice may be served on the ratepayer which relates to the amount payable in respect of the chargeable financial year beginning on 1st April 2010 or 1st April 2011 (as the case may be) and to the deferred payment of rates in respect of the financial year beginning on 1st April 2009 in accordance with paragraph 18 of Schedule 1A.

(4) If pursuant to paragraph (3) a single demand notice relates to different chargeable financial years, the amounts due under it, and the times at which they fall due, shall be determined as if separate notices were issued.””

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (“the Local Lists Regulations”) and the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 (“the Central Lists Regulations”) to make special provision in relation to the collection of non-domestic rates payable in respect of the financial year beginning on 1st April 2009 (“the financial year 2009/10”). These Regulations also make consequential modifications to the Non-Domestic Rating (Contributions) (England) Regulations 1992 and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003.

The Local Lists Regulations and the Central Lists Regulations provide for annual rates liability to be discharged in instalments. However, under the existing instalment scheme the instalments are payable in the financial year to which the demand for payment relates.

These Regulations insert a new Schedule 1B into the Local Lists Regulations and a new Schedule 1A into the Central Lists Regulations to provide that where a ratepayer who is subject to non-domestic rates in respect of the financial year 2009/10 satisfies certain conditions, they can defer payment of a specified proportion of that liability to the financial years beginning on 1st April 2010 and 1st April 2011.

The conditions that must be satisfied before a ratepayer can take advantage of deferral are set out in paragraph 1 of new Schedule 1B and paragraph 1 of new Schedule 1A and paragraphs 2 and 3 of those Schedules (“the new schedules”) make provision about the application for deferral.

In relation to the Local Lists Regulations paragraphs 4 to 13 of new Schedule 1B make provision about the calculations that the billing authority must carry out in order to establish the amount that a ratepayer may defer (“the actual deferrable amount”) and the amount which must be paid in the financial year 2009/10 (“the non-deferrable amount”).

Paragraphs 14 to 16 make provision about payment of the non-deferrable amount. Paragraph 17 makes provision about the cessation of instalments where the ratepayer ceases to occupy the property. Paragraph 18 makes provision about the adjustment of instalments during the 2009/10 financial year where the amount payable by the ratepayer or the amount the ratepayer is eligible to defer needs to be recalculated for whatever reason.

Paragraph 19 makes provision about how the actual deferrable amount is to be paid in the financial years beginning on 1st April 2010 and 1st April 2011.

Paragraph 20 modifies regulation 8 of the Local Lists Regulations so that where a ratepayer fails to pay any instalment due in respect of the actual deferrable amount the provisions in those Regulations that deal with enforcement apply in respect of that amount.

Paragraphs 21 and 22 deal with the cessation and adjustment of instalments in the financial years beginning on 1st April 2010 and 1st April 2011.

Paragraph 23 modifies regulation 4 of the Local Lists Regulations so that where a ratepayer has deferred payment of rates under the new Schedule the billing authority may, in respect of the financial years 2010/11 and 2011/12, issue a single notice which relates to the amount payable in respect of that year and to payment of the actual deferrable amount.

Paragraphs 4 to 22 of new Schedule 1A to the Central Lists Regulations make equivalent provision in relation to the payment of rates in the financial year beginning on 1st April 2009/10 by ratepayers whose names appear on the central rating list.

Regulation 4 of these Regulations modifies the definition of “relevant year” in regulation 1 of the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 so that where a demand notice is issued under regulation 4 of the Local Lists Regulations (as modified by

these Regulations), which relates to the payment of rates in respect of the financial year beginning on 1st April 2010 or 1st April 2011 and to payment of the actual deferrable amount, the notice need only include the information required by the Demand Notice Regulations as it relates to the financial year beginning on 1st April 2010 or 2011 (as the case may be).

Regulation 5 of these Regulations modifies regulation 6 (recalculation of provisional amounts) of the Non-Domestic Rating Contributions (England) Regulations 1992 (“the 1992 Regulations”) in respect of the financial year 2009/10. The 1992 Regulations make provision about the calculation of non-domestic rating contributions which billing authorities are required to make to the Secretary of State. The modification, which applies in relation to the financial year 2009/10, removes the financial thresholds below which a billing authority would otherwise be unable to recalculate its provisional contribution for the year. This is to enable authorities to recalculate their non-domestic rates contributions as a result of ratepayers deferring payment of rates relating to the financial year 2009/10 under these Regulations.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Communities and Local Government’s Business Rates and Valuation Division (telephone 020 7944 4224) and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website ([www.opsi.gov.uk](http://www.opsi.gov.uk)).

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STATUTORY INSTRUMENTS

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**RATING AND VALUATION, ENGLAND**

The Non-Domestic Rating (Deferred Payments) (England)  
Regulations 2009

£5.50