

2010 No. 134

LOCAL GOVERNMENT, ENGLAND

RATING AND VALUATION, ENGLAND

**The Business Rate Supplements (Administrative Expenses)
(England) Regulations 2010**

<i>Made</i> - - - -	<i>26th January 2010</i>
<i>Laid before Parliament</i>	<i>2nd February 2010</i>
<i>Coming into force</i> - -	<i>2nd March 2010</i>

The Secretary of State, in exercise of the powers conferred by sections 21(1), 22(1), 22(6) and 29(3) of the Business Rate Supplements Act 2009 (a), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Business Rate Supplements (Administrative Expenses) (England) Regulations 2010 and shall come into force on 2nd March 2010.

Interpretation

2. In these Regulations—

“the Act” means the Business Rate Supplements Act 2009;

“the 1988 Act” means the Local Government Finance Act 1988(b);

“the Transfers Regulations” means the Business Rate Supplements (Transfers to Revenue Accounts) (England) Regulations 2009(c); and

“administrative expenses” means the reasonable administrative expenses of the collection and recovery of a BRS.

Administrative expenses of a BRS: billing authorities which are levying authorities

3. A billing authority which is a levying authority is authorised to deduct sums for the administrative expenses from the amount it is required to transfer during a financial year from its collection fund to its revenue account under the Transfers Regulations.

(a) 2009 c.7. These powers are exercisable by the appropriate national authority., for which see s.29(1) of the Act. The appropriate national authority is defined by section 30(1)(a) in relation to local authority areas in England as the Secretary of State.

(b) 1988 c.41.

(c) S.I. 2009/2543.

Administrative expenses of a BRS: billing authorities which are not levying authorities

4.—(1) A billing authority which is not a levying authority is authorised to use such proportion of the amount it is required to transfer during a financial year from its collection fund to the levying authority's revenue account under the Transfers Regulations for the administrative expenses as is prescribed in the Schedule to these Regulations.

(2) A levying authority is required for the purposes of section 22(4) of the Act to pay such amount of the administrative expenses of a billing authority which is not a levying authority as is prescribed in the Schedule to these Regulations.

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

Barbara Follett

Parliamentary Under Secretary of State

Department for Communities and Local Government

26th January 2010

SCHEDULE

Regulation 4

Interpretation

1. In this Schedule—

“final return” means the return required by paragraph 7(1) of Schedule 2 to the Transfers Regulations;

“provisional return” means the return required by paragraph 2(1) of Schedule 2 to the Transfers Regulations;

“the first financial year” means the first financial year for which a levying authority imposes a BRS;

“the provisional return amount” means the amount to be shown in the provisional return, as calculated in accordance with paragraph 2(2) of Schedule 2 to the Transfers Regulations; and

“the second financial year” means the financial year—

- (a) which immediately follows the first financial year for which a levying authority imposes a BRS; and
- (b) for which a levying authority imposes a BRS.

Deductions: initial administrative expenses

2.—(1) Sub-paragraphs (2) to (3) apply in the first financial year and where—

- (a) a levying authority gives notice to the billing authority in accordance with section 18 of the Act, and
- (b) the chargeable period of the BRS is to begin on the first day of the financial year.

(2) The billing authority is authorised, for the purposes of section 22(1) of the Act, to deduct such proportion of the provisional return amount as is equal to the amount of the initial administrative expenses from the first instalment of the provisional return amount payable in accordance with paragraph 4(2) of Schedule 2 to the Transfers Regulations.

(3) If necessary, the billing authority is authorised to deduct further amounts from each subsequent instalment of the provisional return amount until it has recovered the total amount of the initial administrative expenses.

(4) If the billing authority does not recover the total amount of the initial administrative expenses during the first financial year, it is authorised to deduct such proportion of the provisional return amount as is equal to the outstanding balance of the amount of the initial

administrative expenses from the first instalment of the provisional return amount in the second financial year.

(5) If necessary, the billing authority is authorised to deduct further amounts from each subsequent instalment of the provisional return amount in the second financial year until it has recovered the total amount of the initial administrative expenses.

(6) If the levying authority does not impose a BRS in the financial year immediately following the first financial year, the levying authority shall make arrangements for the payment of the outstanding balance of the amount of the initial administrative expenses no later than 31 May of the financial year immediately following the first financial year.

(7) The provisional return for the first financial year and the second financial year (if necessary) must include details of the initial administrative expenses.

(8) For the purposes of the calculation at paragraph 7(1)(a) of Schedule 2 to the Transfers Regulations, the amount of the initial administrative expenses is to be deducted from the amount the billing authority collected during that year by way of BRS before entry in the billing authority's final return for the financial year under that paragraph.

(9) Paragraphs (10) to (11) apply in the first financial year and in the following circumstances—

(a) where—

(i) a levying authority gives notice to the billing authority in accordance with section 18 of the Act; and

(ii) the chargeable period of the BRS is to begin after the first day of a financial year; or

(b) where—

(i) a levying authority gives notice to the billing authority in accordance with section 19 of the Act; and

(ii) the chargeable period of the BRS is to begin on or after the first day of a financial year.

(10) The levying authority shall for the purposes of section 22(6) of the Act make arrangements for the payment to the billing authority, no later than one month after the first day of the chargeable period of the BRS, of an amount equal to the initial administrative expenses.

(11) The provisional return for the first financial year must include details of the initial administrative expenses.

(12) In paragraphs (1) to (11) above, “the initial administrative expenses” means the reasonable expenses incurred in the manner provided by sub-paragraph (13) by the billing authority in respect of changes to their computer programmes and other reasonable administrative expenses (including staff training) associated with the first time of collection of a BRS.

(13) The initial administrative expenses must be incurred—

(a) where the chargeable period of a BRS begins on the first day of a financial year, prior to 1 April of the first financial year; or

(b) where the chargeable period of a BRS begins after the first day of a financial year, prior to the first day of the first chargeable period for which a levying authority imposes a BRS.

Deductions: further administrative expenses where the BRS is due to begin on first day of financial year

3.—(1) Sub-paragraphs (2) to (4) apply in a financial year for which a levying authority intends to impose a BRS and where—

(a) a levying authority gives notice to the billing authority in accordance with section 18 of the Act, and

(b) the chargeable period of the BRS is to begin on the first day of the financial year.

(2) The billing authority is authorised to deduct, for the purposes of section 22(1) of the Act, such proportion of the amount due under its final return as is equal to the amount of the section 18 administrative expenses.

(3) For the purposes of the calculation at paragraph 7(1)(a) of Schedule 2 to the Transfers Regulations, the amount of the section 18 administrative expenses (if any) is to be deducted from the amount the billing authority collected during that year by way of BRS before entry in the billing authority’s final return for the financial year under that paragraph.

(4) The “section 18 administrative expenses” means the amount of the reasonable expenses, if any, incurred by the billing authority in respect of the collection and enforcement of a BRS where the circumstances set out in sub-paragraph (1) apply including (but not limited to) the expenses of employing staff for the purposes of answering queries from the general public and staff training, but not exceeding the maximum amount calculated in accordance with sub-paragraph (5) below.

(5) The maximum amount of the section 18 administrative expenses is to be calculated in accordance with the formula—

$$\left(\frac{A}{B} \times C\right)D$$

where—

A is the total number of persons in the area of a billing authority who, as regards a hereditament in the billing authority’s area, are subject to a non-domestic rate under section 43(a) or section 45 of the 1988 Act and who are subject to a BRS imposed for that year by the levying authority in whose area the hereditament is situated;

B is the total number of persons in the area of a levying authority who, as regards a hereditament in the levying authority’s area, are subject to a non-domestic rate under section 43 or section 45 of the 1988 Act and who are subject to a BRS imposed for that year by the levying authority in whose area the hereditament is situated;

C is the levying authority’s estimate of the aggregate amount it will collect by way of BRS in the financial year;

D is the relevant percentage, as set out in Table 1, where the year of BRS refers to the number of years that the levying authority has imposed a BRS.

Table 1

<i>Year of BRS</i>	<i>Relevant percentage</i>
1	0.5
2	0.45
3	0.4
4	0.35
5	0.3
6	0.25
7	0.2
8 and any subsequent year	0.15

(6) The levying authority must notify the billing authority of—

- (a) the amount the levying authority estimates that it will raise from the imposition of the BRS for the financial year; and

(a) 1988 c.41. Section 43 has been amended by section 117 of and Schedule 13 to the Local Government Finance Act 1992; section 1 of and Schedule 1 to the Local Government and Rating Act 1997; section 127 of and Schedule 8 to the Postal Services Act 2000; sections 1, 2 and 3 of the Rating (Former Agricultural Premises and Rural Shops) Act 2001 sections 61,; and sections 63 and 64 of the Local Government Act 2003. Section 45 has been amended by section 139 of and Schedule 5 to the Local Government and Housing Act 1989; section 117 of and Schedule 13 of the Local Government Finance Act 1992; section 1 of the Rating (Empty Properties) Act 2007; and section 2 of and Schedule 2 to the Rating (Empty Properties) Act 2007. Other amendments have been made to the Act which are not relevant here.

- (b) the total number of persons in the area of the levying authority who, as regards a hereditament in the levying authority’s area, are subject to a BRS imposed for that year by the levying authority in whose area the hereditament is situated before 30 April of the following financial year.

Deductions: further administrative expenses where the BRS is due to begin after the start of the financial year

- 4.—(1) Paragraphs (2) to (6) apply in any of the cases in sub-paragraphs (a) to (c)—
- (a) in a financial year for which a levying authority intends to impose a BRS and where—
 - (i) the authority gives notice to the billing authority in accordance with section 18 of the Act; and
 - (ii) the chargeable period of the BRS is to begin after the first day of a financial year;
 - (b) in a financial year for which a levying authority intends to impose a BRS and where—
 - (i) the authority gives notice to the billing authority in accordance with section 19 of the Act; and
 - (ii) the chargeable period of the BRS is to begin on or after the first day of the financial year; or
 - (c) in a financial year for which a levying authority varies a BRS in accordance with section 10 of the Act and where—
 - (i) the authority thinks that, as a result of the variation, new calculations are required to find the chargeable amounts that some or all of those subject to the BRS are liable to pay;
 - (ii) a levying authority gives notice to the billing authority in accordance with section 19 of the Act; and
 - (iii) the variation of the BRS is to take effect after the first day of the financial year.

(2) As soon as possible after the end of the financial year, the billing authority shall submit a return (“the section 19 administrative expenses return”) to the relevant levying authority showing the amount of the section 19 administrative expenses.

(3) The section 19 administrative expenses return shall be submitted no later than 31 May in the financial year following that to which it relates.

(4) The section 19 administrative expenses return shall be certified by the billing authority’s chief finance officer.

(5) The levying authority shall make payment of an amount equal to the amount shown in the section 19 administrative expenses return to the billing authority, no later than 30 June in the financial year in which the section 19 administrative expenses return is submitted.

(6) The “section 19 administrative expenses” means the amount of the reasonable expenses, if any, incurred by the billing authority in respect of the collection and enforcement of a BRS where any of the circumstances set out in paragraph (1) apply, including (but not limited to) the expenses of BRS billing arrangements and the expenses of employing staff for the purposes of answering queries from the general public and staff training, but not exceeding the maximum amount calculated in accordance with paragraph (7) below.

(7) For the purposes of section 22(6) of the Act, the maximum amount of the section 19 administrative expenses is to be calculated in accordance with the formula—

$$\left(\frac{E}{F}\right) \times G$$

where—

E is the total number of persons in the area of a billing authority who, as regards a hereditament in the authority’s area, are subject to a non-domestic rate under section 43

or section 45 of the 1988 Act and who are subject to a BRS imposed for that year by the levying authority in whose area the hereditament is situated;

F is the total number of persons in the area of a billing authority who, as regards a hereditament in the authority's area, are subject to a non-domestic rate under section 43 or section 45 of the 1988 Act for that year;

G is the amount calculated under paragraph 4(1) of Schedule 1 to the Non-Domestic Rating Contributions (England) Regulations 1992^(a) for the billing authority in that year.

(a) SI 1992/3082. Paragraph 4(1) has been amended by regulation 3 of SI 1994/3139; regulation 3 of SI 1996/3245; regulations 2 and 3 of SI 2008/3078; and article 5 of and Schedule 2 to SI 2009/1307. Other amendments have been made to the SI which are not relevant here.

EXPLANATORY NOTE

(This note is not part of the Order)

In England, the Business Rate Supplements Act 2009 gives county councils, district councils in areas where there is no county council, and the Greater London Authority the power to levy a supplement (a “BRS”) on the national non-domestic rate with effect from 1st April 2010.

In areas where a single local authority performs all local authority functions, that local authority will be both the levying authority for a BRS and the billing authority. In areas where there remain two tiers of local government, the county council will be the levying authority and functions of the billing authority will be performed by the district councils in the area or, in London, the London borough councils.

These Regulations make provision for the billing authorities to recover the administrative expenses (the costs of collection and recovery) of a BRS.

Where a levying authority is also a billing authority, Regulation 3 permits the levying authority to deduct sums from the amount that it is required to transfer from its collection fund to its revenue account for the administrative expenses.

Where the levying authority and the billing authority are separate authorities, Regulations 4 and 5, and the Schedule make provision for the different situations that may arise in relation to the administrative expenses.

In relation to the initial administrative expenses incurred by a billing authority before the beginning of a chargeable period of a BRS, paragraph 2 of the Schedule makes provision for the billing authority to deduct a prescribed amount of those expenses, from each instalment of BRS transferred to the levying authority’s revenue account during the first year of a BRS and, if necessary, in the second year or, if there is no second year, for the levying authority to reimburse the balance to the billing authority. The initial administrative expenses may include the expenses of changes to an authority’s computer programmes where necessary and associated expenses of the first time of collection.

In relation to administrative expenses where a levying authority has given notice to the billing authority in accordance with section 18 of the Act and the chargeable period of the BRS is to begin on the first day of the financial year, paragraph 3 of the Schedule permits the billing authority to deduct the administrative expenses from the balancing payment in the final return up to a maximum prescribed amount, being a percentage of the total BRS yield over the levying authority area, based on the billing authority’s share of BRS-liable properties in the levying authority area.

Where the chargeable period of the BRS is to begin after the first day of a financial year, paragraph 4 of the Schedule provides that the billing authority is to submit a further return showing the administrative expenses after the end of the financial year. The levying authority must then make arrangements for the transfer of the amount to the billing authority by 30 June. The maximum amount is determined by a formula which allows for the expenses to be a proportion of the costs of collection allowance for national non-domestic rates.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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