

EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING AND BUSINESS RATE SUPPLEMENTS (DEFERRED PAYMENTS) (ENGLAND) REGULATIONS 2012

2012 No. 994

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

These Regulations provide that where a ratepayer is subject to non-domestic rates for the financial year beginning on 1 April 2012 they can defer payment of a specified proportion of that liability to the years beginning on 1 April 2013 and 1 April 2014. To do this the Regulations amend the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (S.I. 1989/1058) (“the Local Lists Regulations”) and the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 (S.I. 1989/2260) (“the Central Lists Regulations”). They also make consequential amendments and modifications to the Non-Domestic Rating (Demand Notices) (England) Regulations 2003 (S.I. 2003/2613) (“the Demand Notices Regulations”) and the Non-Domestic Rating Contributions (England) Regulations 1992 (S.I. 1992/3082) (“the Contributions Regulations”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Context**

- 4.1 Under section 41 of the Local Government Finance Act 1988 (“the 1988 Act”) most non-domestic properties appear on the local rating list compiled for the area in which they are situated. Under section 43 of the 1988 Act, the occupiers of such property are liable for non-domestic rates for each financial year (which for the purposes of local government finance, runs from 1 April to 31 March). For unoccupied properties, liability falls on the owner of the property, under section 45 of the 1988 Act.
- 4.2 Certain properties appear instead on a central rating list, maintained under section 52 of the 1988 Act. For these properties liability arises under section 54 and rates are paid to the Secretary of State.

- 4.3 The amount of rates payable for properties on both the local and central lists is increased each year by reference to the Retail Price Index for the preceding September, in accordance with Schedule 7 to the 1998 Act.
- 4.4 The Business Rate Supplements Act 2009 provides for the imposition of an additional levy (“BRS”) on persons liable for non-domestic rates under section 43 or 45 of the 1988 Act.
- 4.5 The Local Lists Regulations require the billing authority (the district or unitary authority for the area that the property is situated in) to issue to the ratepayer with a demand notice, for each financial year, setting out the ratepayer’s liability for rates. Similar provision is made by the Central Lists Regulations for the issue of demand notices by the Secretary of State. The content of demand notices is governed by the Demand Notices Regulations. Collection of BRS is also governed by the Local Lists Regulations – the supplement and rates forming a single liability for collection and enforcement purposes.
- 4.6 Where a demand notice is issued, regulation 7 of the Local Lists Regulations and regulation 7 of the Central Lists Regulations provide for the liability to be discharged either in instalments or in accordance with an agreement reached between the billing authority or Secretary of State (as the case may be) and the ratepayer. Schedule 1 to each set of regulations set out how the instalments are to be calculated. Generally speaking payments are to be made in the year for which liability arises.
- 4.7 The Non-Domestic Rating (Deferred Payments) (England) Regulations 2009 (S.I. 2009/1597) made provision for deferral of a certain proportion of rates liability for the year commencing 1 April 2009. The current Regulations make similar provision to the parts of those regulations that related to deferral of the Retail Price Index increase.
- 4.8 These Regulations provide for ratepayers to apply to defer a specified proportion of their liability for the year commencing 1 April 2012, to be paid over the following 2 years. A new Schedule 1G is inserted into the Local Lists Regulations and a new Schedule 1C into the Central Lists Regulations which sets out the operation of the instalment scheme, where such an application has been made, for the years commencing 1 April 2012, 2013 and 2014. Schedule 1H inserted into the Local Lists Regulations sets out the form for such an application.
- 4.9 These Regulations modify the Demand Notices Regulations to provide for demand notices that relate to more than one financial year (as will be the case in 2013 and 2014). They also modify the Contributions Regulations so that billing authorities may recalculate their payment of collected rates to the Secretary of State to take account of changes made by these Regulations.

5. Territorial Extent and Application

This instrument applies to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

- 7.1 Business rates bills are indexed to the previous September's Retail Price Index. September 2011's Retail Price Index was 5.6%, the highest ever increase. In consequence, the Chancellor announced in his Autumn Statement that businesses would be given the option of spreading the increase over three years. These Regulations give effect to that announcement. Ratepayers will be able to defer payment of 3.2% of their 2012-13 bills – which is equivalent to 60% of the Retail Price Index increase – to be paid in 2013-14 and 2014-15.
- 7.2 Ratepayers will be able to apply to defer at any time up until the end of the billing year (31 March 2013) and, regardless of when they apply, will be able to defer against the whole year's bill, up to the amount still left to pay.
- 7.3 The scheme was announced early to provide businesses with the time to take a considered view as to how to manage their finances. To provide time for local authority software suppliers to update their systems the earliest deferral day has been set as 30 June. Ratepayers will see the reduction from their July instalment provided that the application is returned before 8 June 2012.
- 7.4 In terms of administration, the scheme is similar to the 2009-10 deferral scheme, with the one main difference being that ratepayers can defer from earlier than last time.

Consolidation

- 7.5 As these are temporary changes, and all the substantive provisions being added to the Local Lists Regulations and the Central Lists Regulations are contained in new schedules, the Government does not consider it necessary to consolidate the amended regulations.

8. Consultation outcome

The deferral scheme was an Autumn Statement measure. These are technical changes which give effect to that announcement.

9. Guidance

The Department will issue advice to authorities through the usual process of Business Rates Information Letters.

10. Impact

This instrument provides a potential benefit to ratepayers by allowing them to defer a portion of their 2012-13 business rates bills. The measure was announced in the Chancellor's Autumn Statement.

11. Regulating small business

The legislation provides a potential benefit to small business.

12. Monitoring & review

The Government will monitor the impact of these Regulations as part of the ongoing maintenance of the business rates system.

13. Contact

David McDonald at the Department for Communities and Local Government (tel: 0303 444 2135 or email: David.McDonald@communities.gsi.gov.uk) can answer any queries regarding the instrument.