

# **BUSINESS RATE SUPPLEMENTS ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### *Involvement of ratepayers, etc.*

#### *Sections 4 to 9: Conditions for imposing a BRS*

18. This group of sections sets out the actions a levying authority must undertake before a BRS can be introduced.
19. Under section 5, for every BRS an initial and final prospectus must be published setting out the information listed in Schedule 1 to the Act. The initial prospectus will be the basis for the levying authority's consultation – and, where it is required, ballot – on its proposal to introduce the BRS. The information required is intended to assist consultees in understanding the practical arrangements for the BRS – in particular its level and duration – and the arrangements for the project it will fund. The final prospectus will be produced after consultation (and, where necessary, a ballot) and will contain the details of the BRS which will actually be imposed and the project it will fund. Outside London, it will be the responsibility of the whole levying authority to approve the final prospectus. In London, it will be the Mayor's responsibility.
20. [Section 6\(1\)](#) sets out who levying authorities must consult about their proposals to introduce a BRS including, in particular, those persons who will be liable to pay the BRS. [Subsections \(2\) to \(4\)](#) will assist levying authorities in determining how to meet that requirement by providing that, for the purposes of consultation, the persons liable to a BRS are:
  - those the authority thinks will be liable to pay the BRS on its first day;
  - those the authority thinks would be liable to pay the BRS on its first day if they were not receiving 100% relief from the BRS under [section 13\(7\) or \(8\)](#) as a consequence of receiving 100% relief from non-domestic rates; and
  - those the authority thinks would be liable to pay the BRS on its first day if they were not exempt because of the operation of a BRS relief under [section 15](#) or because their BID levy liability has been offset against their BRS liability under [section 16](#), but will pay the BRS levy before it comes to an end.
21. [Subsection \(5\)](#) requires the levying authority to consider whether to consult persons who they think might become liable to pay the BRS before it comes to an end. This could include, for example, those who may be brought into liability in the future because they occupy a non-domestic property with a rateable value just under the threshold for liability to a BRS.
22. In cases where the amount a levying authority expects to raise from a BRS is more than one third of the total cost of the project it is being levied to fund, a ballot will be required in accordance with [sections 7 to 9](#). The levying authority may also choose to hold a ballot in other circumstances.

23. **Section 7(3)** specifies the wording of the question to be asked in a ballot on a supplement. Under *subsection (4)*, those eligible to vote are those persons the authority thinks will be liable to pay the BRS (within the meaning given by section 6(2) to (4)).
24. A ballot approving the imposition of a supplement is one where there is a simple majority of non-domestic properties, both by number and by rateable value, in favour of the proposal (section 8(1)). A majority by rateable value is determined by comparing the total rateable value of those non-domestic properties in respect of which there has been a vote in favour against the total rateable value of those properties in respect of which there has been a vote against the proposal (*subsection (2)*). *Subsection (3)* provides that, for the purposes of determining whether there has been a majority in favour of the proposal to impose a BRS, rateable values are those on the day of the ballot.
25. **Section 9** empowers the Secretary of State and, in Wales, the Welsh Ministers to make regulations about the procedure for ballots on imposing supplements. By virtue of *subsection (3)*, such regulations could, in particular, include provision allowing levying authorities to delegate the function of holding a ballot and counting the votes to a billing authority.

### ***Section 10: Variations***

26. *Subsection (1)* allows a levying authority to vary a BRS provided the variation is in accordance with the final prospectus, and provided that the variation will not increase the number of persons liable to pay the BRS (*subsection (12)*).
27. If a variation is not foreshadowed in the final prospectus, *subsections (2) to (11)* set out the requirements which must be satisfied by a levying authority before it can make the variation. These largely mirror the requirements for imposing a BRS set out in sections 4 to 9, so that, in particular, those who will be affected by the variation are consulted and, where appropriate, given the chance to vote in a ballot.