

BUSINESS RATE SUPPLEMENTS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Supplementary

Section 25: Provision of information

57. *Subsection (1)* enables levying authorities to obtain certain information from billing authorities for the purposes of setting a BRS and drawing up a prospectus, including the addresses and rateable values of non-domestic properties in its area. *Subsection (4)* limits the use of such information to that required for the purposes of the Act and disclosure by the levying authority of the information.

Section 26: Guidance

58. This section requires levying authorities to have regard to guidance issued by the Secretary of State or, in Wales, the Welsh Ministers about a range of matters connected to BRS including, in particular, the kinds of projects which may be regarded as appropriate to be funded through a BRS and how the levying authority will demonstrate that it would not have incurred the expenditure if it had not imposed the BRS.

Section 27: Special introductory provision

59. This section makes provision in relation to BRS in the period immediately after Royal Assent of the Act. In particular, *subsection (1)* provides that no BRS may be levied before 1st April 2010.
60. *Subsection (2)* provides that, in England, a BRS may be levied on or before 1st April 2012 for the purpose of supporting a project which begins before the power in section 1 to levy a BRS is commenced. After 1st April 2012, it will not be possible for BRS to be levied in respect of such pre-existing projects.
61. *Subsections (3)* and *(4)* provide that any guidance issued by the Secretary of State prior to Royal Assent is to be treated as guidance issued under section 26 and may be relied on by levying authorities for the purposes of levying a BRS on or before 1st April 2012. *Subsection (5)* provides that steps taken by a levying authority in line with such “pre-commencement” guidance are to be treated as having been carried out in accordance with the Act.
62. *Subsection (6)* relates to any BRS established by the GLA in reliance on *subsection (2)* on or before 1st April 2011. In those circumstances, it provides that the requirements of sections 3(1)(b) (that BRS revenues must be used to fund expenditure the levying authority would not have incurred had it not imposed the BRS) and 7(1) and 10(7) (that there must be a ballot where the BRS will fund more than one third of project costs) do not apply.
63. *Subsection (7)* enables the Secretary of State to make other provision in regulations on the establishment and operation of BRS in London in the period up to 1st April 2012.

In particular, these may modify the operation of the Act in relation to a BRS levied by the GLA in that period.

Schedule 1: Information to be included in a prospectus for a BRS

64. **Schedule 1** prescribes the information that is to be included in initial and final prospectuses for BRS. In particular, prospectuses must set out a description of the project to which the BRS relates and a description of the expenditure for which the sums received from the BRS will be used; the authority's economic assessment of the BRS; the practical arrangements for the BRS, including its level, duration and any reliefs which will apply; and, in those cases where the supplement is expected to fund less than one third of the total projected cost of the project, whether or not the levying authority intends to hold a ballot and an explanation for its intended course of action.

Schedule 2: BRS-BID arrangements

65. **Schedule 2** gives certain local authorities power to make arrangements for a new type of Business Improvement District ("BID") levy, to be known as "BRS-BID" levy. The levy could be imposed in areas where both a BID and BRS exist and would allow for the owners of properties to be involved in the BRS-BID. Under the Local Government Act 2003, property owners can have no formal involvement in BIDs unless their property is empty and not let, although they may choose to make voluntary contributions to the BID.
66. The proceeds from the new BRS-BID levy could either fund the same project as the BID – by providing additional revenues or offsetting the contributions of ratepayers who are liable to both the BID and the BRS – or fund a different project. As for BIDs, a BRS-BID could not be established unless there were a successful ballot on the BRS-BID proposals.

Schedule 3: Accounting

67. **Paragraph 1** of Schedule 3 requires levying authorities that impose a BRS to set up and keep a BRS revenue account for that BRS and ensure that sums received in respect of it are credited to the BRS revenue account. Paragraph 1 also provides that if two or more levying authorities are acting jointly they must have their own BRS revenue accounts. Where the GLA levies a BRS, any functional body which receives any of the BRS receipts, including voluntary financial contributions, must also maintain a BRS revenue account.
68. **Paragraph 2** makes provision for regulations to deal with how BRS receipts are transferred into the levying authority's BRS revenue account. Paragraph 3 gives the Secretary of State and, in Wales, the Welsh Ministers the power to make regulations providing for refunds if a BRS comes to an end and for regulations to set out how refunds or credits are given.