

2012 No. 994

RATING AND VALUATION, ENGLAND

**The Non-Domestic Rating and Business Rate Supplements
(Deferred Payments) (England) Regulations 2012**

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| <i>Made</i> - - - - | <i>2nd April 2012</i> |
| <i>Laid before Parliament</i> | <i>5th April 2012</i> |
| <i>Coming into force</i> - - | <i>30th April 2012</i> |

The Secretary of State, in exercise of the powers conferred by sections 143(1), 143(2) and 146(6) of, paragraphs 6(5) and 6(6) of Schedule 8 to, and paragraphs 1 to 4 of Schedule 9 to, the Local Government Finance Act 1988(a), and sections 21 and 29(3) of the Business Rate Supplements Act 2009(b) makes the following Regulations:

Citation, application and commencement

1. These Regulations, which apply in relation to England only, may be cited as the Non-Domestic Rating and Business Rate Supplements (Deferred Payments) (England) Regulations 2012 and come into force on 30th April 2012.

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(c) are amended as follows.

(2) After regulation 7C (Deferred payments: special provision in relation to Wales) insert—

“Deferred payments: special provision in relation to England for financial years beginning on 1st April 2012, 2013 and 2014

7D. Schedules 1G and 1H, which contain special provision in relation to payments under demand notices relating to financial years beginning on 1st April 2012, 1st April 2013 and 1st April 2014, shall have effect.”.

(a) 1988 c. 41. Section 143(2) was amended by paragraphs 72 and 79 of Schedule 5 to the Local Government and Housing Act 1989 (c.42) (“the 1989 Act”). Paragraphs 1 and 3 of Schedule 9 are prospectively amended by Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 (c. 15). Paragraph 2 of Schedule 9 was amended by paragraphs 44 and 79 of Schedule 5 and Schedule 12 to the 1989 Act. Paragraphs 3 and 4 of Schedule 9 were amended by paragraph 87 of Schedule 13 to the 1992 Act. 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) 2009 c.7.

(c) S.I. 1989/1058. Relevant amending instruments are S.I. 1991/1127, 1993/616, 2003/2604, 2008/428, 2009/1597, 2010/187, 2010/1656, 2010/2222, 2012/24 and 2012/466.

(3) After Schedule 1F (small business rate relief in relation to Wales: special provision in relation to the instalment scheme for 2011/12), insert Schedule 1G set out in Schedule 1 to these Regulations.

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

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

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

(2) After regulation 7B (Deferred payments: special provision in relation to Wales) insert—

“Deferred payments: special provision in relation to England for financial years beginning on 1st April 2012, 2013 and 2014

7C. Schedule 1C, which contains special provision in relation to payments under demand notices relating to financial years beginning on 1st April 2012, 1st April 2013 and 1st April 2014, shall have effect.”.

(3) After Schedule 1B (deferred payment scheme in relation to Wales) insert Schedule 1C 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 2013 and 1st April 2014 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 2012), the notice relates to more than one chargeable financial year “the relevant year” means the financial year beginning on 1st April 2013 or 1st April 2014 (as the case may be);”.

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

5. For the financial year beginning on 1st April 2012, regulation 6 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

Andrew Stunell

Parliamentary Under Secretary of State

Department for Communities and Local Government

2nd April 2012

(a) S.I. 1989/2260. Relevant amending instruments are S.I. 2006/237, 2009/1597, 2009/2154 and 2012/466.

(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.

“SCHEDULE 1G

Regulation 7D

Deferred payment scheme in relation to England for financial years
beginning on 1 April 2012, 2013 and 2014**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 2012; 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 2012; and

(b) the ratepayer has served an application on the billing authority concerned no later than 31st March 2013.

(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 6;

“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), except where the day of service of the application falls before 8th June in which case, the “deferral day” is 30th June;

“deferral notice” means a notice served under paragraph 7;

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

“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 1H 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 legible form.

Calculating the remaining amount

4. The billing authority shall on or as soon 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) 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 amount which is 3.2 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, 3.2 per cent of the aggregate of the amounts estimated for those purposes in relation to the hereditaments concerned.

The actual deferrable amount

6.—(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

(a) 2000 c.7.

the rest of the remaining amount (“the non-deferrable amount”) shall be paid in accordance with paragraph 9.

Deferral notice

7.—(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 9 (payment of the non-deferrable amount);
- (c) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2013 in accordance with paragraph 12; and
- (d) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2014 in accordance with paragraph 12.

(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

8. 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

9.—(1) Subject to sub-paragraph (3), the non-deferrable amount calculated pursuant to paragraph 6 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 7(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

10. Paragraph 6 (and so far as applicable paragraph 8) of Part 2 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 2012

11.—(1) This paragraph applies where—

- (a) a deferral notice has been served on a ratepayer under paragraph 7;
- (b) on a day falling within the financial year beginning on 1st April 2012 (“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 7(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 2012 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 6;
- (d) adjust the instalments (if any) payable in the financial year beginning on 1st April 2012 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 2013 under paragraph 12; and
 - (iv) the amount of the deferrable amount payable in the financial year beginning on 1st April 2014 under paragraph 12.

(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 2 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 rates.

(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

12.—(1) The actual deferrable amount shall be payable in equal proportions in the financial years beginning on 1st April 2013 and 1st April 2014.

(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 2013 or 1st April 2014 (as the case may be) respectively.

(3) Where a notice under this paragraph is served pursuant to provision made in regulation 4(3A), as substituted by paragraph 16, 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 2013 or 1st April 2014 (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 2013 or 1st April 2014 (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
- (c) in the case of a notice served in relation to the financial year beginning on 1st April 2013, the relevant proportion payable in the financial year beginning on 1st April 2014.

(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

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

- (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 2013 or 1st April 2014 (as the case may be).

Modification of regulation 8

13. Where a billing authority has served a notice under paragraph 12(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 1G, and
- (c) any such instalment is not paid in accordance with Schedule 1 or, as the case may be, Schedule 1G,

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 2013/14 or 2014/15

14.—(1) Subject to sub-paragraph (2), paragraph 6 (and so far as applicable paragraph 8) of Part 2 of Schedule 1 shall apply to a notice served under paragraph 12(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 2013 or 1st April 2014 (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 2013/14 or 2014/15

15.—(1) This paragraph applies where—

- (a) a notice has been served on a ratepayer in accordance with paragraph 12;
- (b) on a day (“the relevant day”) any factor or assumption by reference to which the estimate of the amount mentioned in paragraph 7(1)(a) (for the purposes of the deferral notice) or the revised estimate mentioned in paragraph 11(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 12(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 2013, the revised amount payable in the financial year beginning on 1st April 2014.

(3) The revised amount mentioned in sub-paragraph (2)(b)(i) is the amount payable for the financial year beginning on 1st April 2012 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 2 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 rates.

(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.

Modification of regulation 4

16. 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 2013 or 1st April 2014, these Regulations shall have effect as if for paragraph (3A) of regulation 4 (the requirement for demand notices) there were substituted—

“(3A) Where, but for this paragraph, notices would fall to be served in accordance with this Part or in accordance with Schedule 1G on a ratepayer of the authority at the same time in relation to—

- (a) a financial year not then ended, and
- (b) any earlier financial year,

nothing in paragraph (2) shall require a billing authority to serve more than one notice.”.”

“SCHEDULE 1H

Form of application

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 2012

(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 2012.

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 2012.

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 2013;

(b) they must not have discharged their 2012/13 rates liability in full or be due to discharge their 2012/13 liability in full within 21 days of making their application; and

(c) they must not have lost the right to pay their 2012/13 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 2012 is deferred and subsequently the ratepayer ceases to be liable to pay rates in respect of the property to which the deferral applies, the full outstanding liability in respect of the 2012 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 2012 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 1C

Regulation 7C

Deferred payment scheme in relation to England for financial years
beginning on 1 April 2012, 2013 and 2014**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 2012; 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 2012; and

(b) the ratepayer has served an application on the Secretary of State no later than 31st March 2013.

(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 6;

“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), except where the day of service of the application falls before 8th June in which case, the “deferral day” is 30th June;

“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 the 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 amount which is 3.2 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).

The actual deferrable amount

6.—(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 9.

(a) 2000 c. 7.

Deferral notice

7.—(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 9 (payment of the non-deferrable amount);
- (c) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2013 in accordance with paragraph 12; and
- (d) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2014 in accordance with paragraph 12.

(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

8. 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

9.—(1) Subject to sub-paragraph (3), the non-deferrable amount calculated pursuant to paragraph 6(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 7(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

10. Paragraph 6 (and so far as applicable paragraph 8) of Part 2 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 2012

11.—(1) This paragraph applies where—

- (a) a deferral notice has been served on a ratepayer under paragraph 7;
- (b) on a day falling within the financial year beginning on 1st April 2012 (“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 7(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 2012 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 6;
- (d) adjust the instalments (if any) payable in the financial year beginning on 1st April 2012 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 2013 under paragraph 12; and
 - (iv) the amount of the actual deferrable amount payable in the financial year beginning on 1st April 2014 under paragraph 12.

(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 2 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 rates.

(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

12.—(1) The actual deferrable amount shall be payable in equal proportions in the financial years beginning on 1st April 2013 and 1st April 2014.

(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 2013 or 1st April 2014 (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 16, 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 2013 or 1st April 2014 (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 2013 or 1st April 2014 (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 2013, the relevant proportion payable in the financial year beginning on 1st April 2014.

(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 2013 or 1st April 2014 (as the case may be).

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

Modification of regulation 8

13. Where the Secretary of State has served a notice under paragraph 12(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 1C, and
- (c) any such instalment is not paid in accordance with Schedule 1 or, as the case may be, Schedule 1C,

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 2013/14 or 2014/15

14.—(1) Subject to sub-paragraph (2), paragraph 6 (and so far as applicable paragraph 8) of Part 2 of Schedule 1 shall apply to a notice issued under paragraph 12(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 2013 or 1st April 2014 (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 2012 in relation to the hereditament.”.

Adjustment of instalments during 2013/14 or 2014/15

15.—(1) This paragraph applies where—

- (a) a notice has been served on a ratepayer in accordance with paragraph 12;
- (b) on a day (“the relevant day”) any factor or assumption by reference to which the estimate of the amount mentioned in paragraph 7(1)(a) (for the purposes of the deferral notice) or the revised estimate mentioned in paragraph 11(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 12(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 2013, the revised amount payable in the financial year beginning on 1st April 2014.

(3) The revised amount mentioned in sub-paragraph (2)(b)(i) is the revised amount payable for the financial year beginning on 1st April 2012 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 rates.

(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.

Modification of regulation 4

16. 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 2013 or 1st April 2014, these Regulations shall have effect as if for paragraph 3 of regulation 4 (the requirement for demand notices) there were substituted—

“(3) Where, but for this paragraph, notices would fall to be served in accordance with this Part or in accordance with Schedule 1C on a ratepayer of the authority at the same time in relation to—

- (a) a financial year not then ended, and
- (b) any earlier financial year,

nothing in paragraph (2) shall require a billing authority to serve more than one notice.”.”

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 and business rate supplements payable in respect of the financial year beginning on 1st April 2012 (“the financial year 2012/13”). 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 1G into the Local Lists Regulations and a new Schedule 1C into the Central Lists Regulations to provide that where a ratepayer who is subject to non-domestic rates in respect of the financial year 2012/13 satisfies certain conditions, they can defer payment of a specified proportion of that liability to the financial years beginning on 1st April 2013 and 1st April 2014.

The conditions that must be satisfied before a ratepayer can take advantage of deferral are set out in paragraph 1 of new Schedule 1G and paragraph 1 of new Schedule 1C 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 6 of new Schedule 1G 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 2012/13 (“the non-deferrable amount”).

Paragraph 9 makes provision about payment of the non-deferrable amount. Paragraph 10 makes provision about the cessation of instalments where the ratepayer ceases to occupy the property. Paragraph 11 makes provision about the adjustment of instalments during the 2012/13 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 12 makes provision about how the actual deferrable amount is to be paid in the financial years beginning on 1st April 2013 and 1st April 2014.

Paragraph 13 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 14 and 15 deal with the cessation and adjustment of instalments in the financial years beginning on 1st April 2013 and 1st April 2014.

Paragraph 16 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 2013/14 and 2014/15, issue a single notice which relates to the amount payable in respect of that year and to payment of the actual deferrable amount.

New Schedule 1C to the Central Lists Regulations make equivalent provision in relation to the payment of rates in the financial year beginning on 1st April 2012/13 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 2013 or 1st April 2014 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 2013 or 2014 (as the case may be).

Regulation 6 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 2012/13. 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 2012/13, 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 2012/13 under these Regulations.

A full impact assessment has not been prepared for this instrument.

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