

SCHEDULE 4

Regulation 15

IMPOSITION, ADMINISTRATION, COLLECTION, RECOVERY AND APPLICATION OF THE BID LEVY

Interpretation

1.—(1) In this Schedule “relevant period” in relation to a notice means the chargeable period to which the notice relates.

(2) Where references are made in this Schedule to the day on which a notice is issued, they shall be taken to be references —

- (a) if the notice is served in the manner described in sub-paragraph (3) below or section 233(2) of the 1972 Act by being left at, or sent by post to, a person’s place of business or proper address, to the day on which it is so left or posted, or
- (b) in any other case, to the day on which it is served.

(3) Without prejudice to section 233 of the 1972 Act, where any notice which is required or authorised by this Schedule to be given to or served on a person relates to a hereditament which is (or, where such a notice relates to more than one hereditament, one or more of which is) a place of business of that person, it may be given or served by leaving it at, or by sending it by post to him or her at, the place of business (or, as the case may be, one of those places of business).

(4) Without prejudice to section 233 of the 1972 Act and sub-paragraph (3) above and subject to sub-paragraphs (5) to (8) below, any notice required or authorised to be given to or served by a billing authority on any person by this Schedule, or any information required by paragraph 3(2) of this Schedule to be supplied to any person when a demand notice (within the meaning of this Schedule) is served —

- (a) may be so given, served or supplied by sending the notice or information to that person by electronic communication to such address as may be notified by that person for that purpose; or
- (b) are to be treated as given, served or supplied to that person where —
 - (i) the billing authority and that person have agreed for that purpose that any documents containing the notice or information may be accessed by that person on a website;
 - (ii) the document is a document to which that agreement applies;
 - (iii) the billing authority has published the document on a website; and
 - (iv) that person is notified, in a manner for the time being agreed for those purposes between him or her and the billing authority, of —
 - (aa) the publication of the document on a website;
 - (bb) the address of that website; and
 - (cc) the place on the website where the document may be accessed.

(5) For the purpose of any legal proceedings, a notice given by a means described in paragraph (4) shall, unless the contrary is proved, be treated as served on the second business day after —

- (a) it was sent in accordance with sub-paragraph (4)(a); or
- (b) notification of its publication was given in accordance with sub-paragraph (4)(b)(iv).

(6) A person who has notified an address for the purpose of sub-paragraph (4)(a) must, by notice in writing to the billing authority, advise the billing authority of any change in that address; and the change shall take effect on the third business day after the date on which the notice is received by the billing authority.

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(7) A person who has notified an address for the purpose of paragraph sub-paragraph (4)(a) may, by notice in writing to the billing authority, withdraw that notification; and the withdrawal shall take effect on the third business day after the date on which the notice is received by the billing authority.

(8) A person who has entered into an agreement with the billing authority under sub-paragraph (4)(b)(i) may, by notice in writing to the billing authority, inform the authority that he or she no longer wishes to be a party to the agreement; and where such notice is given, the agreement shall be treated as revoked on the third business day after the date on which the notice is received by the billing authority.

The requirement for demand notices

2.—(1) For each chargeable period a relevant billing authority must, in accordance with paragraphs 4 to 6, serve a notice in writing on every person who is liable for the BID levy in relation to the BID arrangements for the period.

(2) Different demand notices must be served for different chargeable periods.

(3) A demand notice must be served with respect to the amount payable for every hereditament as regards which a person is liable for the BID levy, though a single notice may relate to the amount payable with respect to more than one such hereditament.

(4) If a single demand notice relates to the amount payable with respect to more than one hereditament the amounts due under it, and the times at which they fall due, must be determined as if separate notices were issued in respect of each hereditament.

Content of demand notices

3.—(1) A demand notice must contain the following matters —

- (a) a statement of the address and description of each hereditament to which the notice relates;
- (b) a statement explaining how the BID levy is calculated for each hereditament to which the notice relates; and
- (c) a statement of the days (if any) on which, for the purposes of calculating the payments required to be made under the notice, it was understood that the person who is liable for the BID levy in respect of the hereditament fell within the description in the BID arrangements of persons who are to be liable for the BID levy for the chargeable period in question.

(2) A billing authority must when it serves a demand notice supply to the person to whom the notice is served the following information —

- (a) the revenue from the BID levy the billing authority was due to receive in the previous year;
- (b) the amount spent on the BID arrangements in the previous year;
- (c) a description of the matters on which it was spent; and
- (d) a description of the matters on which it is intended to spend the revenue from the BID levy in the financial year.

Invalid notices

4.—(1) Where —

- (a) a demand notice is invalid because it does not comply with paragraph 3;
- (b) the failure so to comply was due to a mistake; and
- (c) the amounts required to be paid under the notice were demanded in accordance with paragraph 3(1),

the requirement to pay those amounts shall apply as if the notice were valid.

(2) Where a requirement to pay an amount under an invalid notice subsists by virtue of sub-paragraph (1), the billing authority must as soon as practicable after the mistake is discovered issue to the person who is liable for the BID levy concerned a statement of the matters which were not contained in the notice and which should have been so contained.

Service of demand notices

5.—(1) Subject to sub-paragraph (2), a demand notice must be served on or as soon as practicable after —

- (a) except in a case falling within paragraph (b), the first day of the relevant period; or
- (b) if the person falls within the description of person to be liable for the BID levy specified in the BID arrangements as regards the hereditament concerned later in the relevant period, the first day after that day in respect of which he or she falls within that description.

(2) A demand notice may be served before the beginning of the relevant period on a person with respect to whom on the day it is issued it appears to the relevant billing authority that he or she will fall within the description of person to be liable for the BID levy specified in the BID arrangements as regards the hereditament to which it relates; and if it is so served, references in this Schedule to a person who is liable for the BID levy shall, in relation to that notice and so far as the context permits, be construed as references to that person.

Payments under demand notices

6.—(1) If a demand notice is issued before or during the relevant period and it appears to the relevant billing authority that the person falls within the description of person to be liable for the BID levy specified in the BID arrangements in respect of the day on which the notice is issued as regards the hereditament to which it relates, the notice shall require payment of an amount equal to the relevant billing authority's estimate of the amount payable for the period.

(2) In making an estimate under sub-paragraph (1) the relevant billing authority must assume, as respects a period which falls after the issue of the notice, that the person will continue to fall within the description referred to in sub-paragraph (1).

(3) If a demand notice is issued during the relevant period but sub-paragraph (1) does not apply, the notice shall require payment of an amount equal to the amount payable for the period in the period up to the day on which the person last fell within the description of person to be liable for the BID levy specified in the BID arrangements as regards the hereditament concerned.

(4) If, after a notice is served to which sub-paragraph (3) applies, the person again falls within the description of person to be liable for the BID levy specified in the BID arrangements in the relevant period as regards the hereditament concerned, a further notice must be served on him or her requiring payments with respect to the amount payable in relation to the hereditament for the period in the relevant period beginning with the day in respect of which he or she so falls within the said description again.

(5) Where a further notice is issued under sub-paragraph (4), paragraphs 5 to 8 shall apply to the further notice with respect to the period referred to in sub-paragraph (4) as if it were a demand notice and the person had not previously fallen within the description of person to be liable to the BID levy specified in the BID arrangements.

(6) If a demand notice is issued after the end of the relevant period, it must require payment of the amount payable for the period.

Payments under demand notices: further provision

7.—(1) Unless an agreement under sub-paragraph (3) in relation to the relevant period has been reached before the demand notice is issued, a notice to which paragraph 6(1) applies must require

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the estimate of the amount payable to be paid on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(2) If an agreement under sub-paragraph (3) in relation to the relevant period has been reached before the demand notice is issued, a notice to which paragraph 6(1) applies must require the estimate of the amount payable to be paid in accordance with that agreement.

(3) A relevant billing authority and a person who is liable for the BID levy may agree that the estimate of the amount payable which is required to be paid under a notice to which paragraph 6(1) applies should be paid in such manner as is provided by the agreement.

(4) Notwithstanding anything in the preceding provisions of this paragraph, such an agreement may be entered into either before or after the demand notice concerned is issued, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in paragraph 6(1) turning out to be wrong; and if it is entered into after the demand notice has been issued, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid before it was entered into.

(5) A notice to which paragraph 6(3) or (5) applies must require payment of the amount payable on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(6) No payment in respect of the amount payable by a person who is liable for the BID levy in relation to a hereditament for any chargeable period need be made unless a notice served under this Schedule requires it.

Demand notices: final adjustment

8.—(1) This paragraph applies where —

- (a) a notice has been issued by a relevant billing authority under this Schedule requiring a payment or payments to be made by a person who is liable for the BID levy in respect of the amount payable in relation to a hereditament for a chargeable period or part of a chargeable period;
- (b) the payment or payments required to be paid are found to be in excess of or less than the amount payable in relation to the hereditament for the period or the part; and
- (c) provision for adjusting the amounts required under the notice and (as appropriate) for the making of additional payments or the repaying or crediting of any amount overpaid is not made by any other provision of this Schedule or of any agreement entered into under paragraph 7(3).

(2) The relevant billing authority must as soon as practicable after the expiry of the period or the part of a period serve a further notice on the person who is liable for the BID levy stating the amount payable for the period or part in relation to the hereditament, and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in sub-paragraph (1)(a).

(3) If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in sub-paragraph (1)(a), the amount of the difference for which such other provision as is mentioned in sub-paragraph (1)(c) is not made shall be due from the person who is liable for the BID levy to the relevant billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(4) If there has been an overpayment in respect of any liability of the person who is liable for the BID levy under this Schedule, the amount overpaid for which such other provision as is mentioned in sub-paragraph (1)(c) is not made —

- (a) must be repaid if the person who is liable for the BID levy so requires; or

- (b) in any other case must (as the relevant billing authority determines) either be repaid or be credited against any subsequent liability of the person who is liable for the BID levy to pay anything to it by way of the BID levy or non-domestic rate.

Enforcement

9. Part III of and Schedules 2 to 4 to the 1989 Regulations shall apply to the enforcement of the BID levy with the following modifications —

- (a) the reference in regulations 10 and 20 to a sum which has become payable to a billing authority under Part II of those regulations must be read as including a reference to a sum which has become payable to a billing authority under this Schedule;
- (b) regulation 11(3) shall not apply;
- (c) regulation 12(1) must be read as if the words from “an amount which has fallen due under regulation 8(2)” to “required under regulation 11)” were excluded;
- (d) the definition of “authorised person” in regulation 21(7) must be read as including a person authorised by a billing authority to exercise any functions relating to the collection and enforcement of the BID levy;
- (e) the reference in regulation 22 to a sum which has become payable under Part II of those regulations to a person other than a billing authority must be read as including a reference to a sum which has become payable under this Schedule to a person other than a billing authority;
- (f) regulation 23(2) must be read as if the words “or the contents of any BID arrangements made under Part 4 of the Local Government Act 2003” were inserted after the words “such a list” and the words “or the arrangements” were inserted after the words “list or extract”;
- (g) regulation 23(3) must be read as if —
 - (i) for sub-paragraphs (a) and (b) there were substituted a reference to notification which is given under paragraph 8(2) of this Schedule; and
 - (ii) the words “or the multiplier in substitution is set under paragraph 10 of Schedule 7 to the Act (as the case maybe)” were excluded; and
- (h) regulation 23(4) must be read as if for the word “paragraph (3)(a) in the case in question, or sets a multiplier in substitution so that paragraph 10(4) of Schedule 7 to the Act applies in the case in question” there were substituted a reference to paragraph 8(2) of this Schedule.

Outstanding liabilities on death

10.—(1) This paragraph applies where a person dies and at any time before their death they were (or are alleged to have been) liable for a BID levy.

(2) Where —

- (a) before the deceased’s death a sum has become payable by them under this Schedule or by way of relevant costs in respect of a BID levy but has not been paid; or
- (b) after the deceased’s death a sum would, but for their death (and whether or not on the service of a notice) become payable by them under this Schedule in respect of a BID levy,

their executor or administrator shall, subject to sub-paragraph (3) and to the extent that it is not in excess of the deceased’s liability (including relevant costs payable by them) in respect of the BID levy, be liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made).

(3) Where sub-paragraph (2)(b) applies, the liability of the executor or administrator does not arise until the service on them of a notice requiring payment of the sum.

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(4) Where before the deceased's death a sum in excess of their liability (including relevant costs payable by them) in respect of a BID levy has been paid (whether the excess arises because of their death or otherwise) and has not been repaid or credited under this Schedule, their executor or administrator shall be entitled to the sum.

(5) Costs are relevant costs for the purposes of sub-paragraphs (2) and (4) if —

(a) an order or warrant (as the case may be) was made by the court in respect of them under regulation 12(6)(b) or (7) or 16(4)(b) of the 1989 Regulations, or in proceedings under regulation 20 of the 1989 Regulations; or

(b) they are charges connected with distress which may be recovered pursuant to regulation 14(2)(b) of the 1989 Regulations.

(6) A sum payable under sub-paragraph (2) shall be enforceable in the administration of the deceased's estate as a debt of the deceased and accordingly —

(a) no liability order need be applied for in respect of it after the deceased's death under regulation 12 of the 1989 Regulations, and

(b) the liability of the executor or administrator is a liability in their capacity as such.

(7) Regulation 23(1) and (2) of the 1989 Regulations applies to proceedings to enforce a liability arising under this paragraph as it applies to other proceedings under this Schedule.

(8) Insofar as is relevant to their liability under this paragraph in the administration of the deceased's estate, the executor or administrator may institute, continue or withdraw proceedings.

Application of BID administration provisions to the Crown

11.—(1) No contravention by the Crown of any provision of this Schedule shall make the Crown criminally liable; but the High Court may, on the application of a billing authority, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(2) Notwithstanding anything in sub-paragraph (1), the provisions of this Schedule shall apply to the Crown as it applies to other persons.

(3) No power of entry conferred by this Schedule shall be exercisable in relation to any hereditament occupied, or, if unoccupied, owned by Her Majesty in her private capacity, and this sub-paragraph shall be construed as if section 38(3) of the Crown Proceedings Act 1947(1) were contained in this Schedule.

Joint occupiers and owners: billing

12.—(1) This paragraph applies in any case where (apart from this paragraph) there would at a particular time be more than one person who is liable for the BID levy for a hereditament or of part of such a hereditament.

(2) Where this paragraph applies —

(a) as regards any time in a chargeable period when there is only one such person who is liable for the BID levy, that person shall be liable to pay the amount payable by way of the BID levy with respect to that time; and

(b) as regards any time in a chargeable period when there is more than one such person who is liable for the BID levy, those persons shall be jointly and severally liable to pay the amount that would have been payable by way of the BID levy with respect to that time if there were only one such person.

(1) 1947 c. 44.

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(3) This Schedule shall have effect to accord with sub-paragraph (2); and in particular a notice which falls to be given under this Schedule which relates to a time when paragraph (2)(b) applies may be given —

- (a) severally to each or any of the persons who is liable for the BID levy concerned from whom payment is demanded; or
 - (b) where the persons concerned are jointly and severally liable as partners or trustees, jointly to the partnership or trust (in which case only a single notice need be given in respect of them and references to “the person who is liable for the BID levy” in this Schedule shall be construed as regards the notice as references to the partners or trustees jointly).
- (4) A notice given to a partnership or trust pursuant to paragraph (3)(b) may be served —
- (a) in the case of a partnership, in the manner described in section 233(3)(b) of the 1972 Act; or
 - (b) in the case of a trust, by being served on one of the trustees;

and where such a notice falls to be served on a partnership, a person having control or management of the partnership business or a trust under this paragraph, the proper address of the partnership, person or trust (as the case may be) shall include (as well as the address mentioned in section 233(4) of the 1972 Act) any place of business which is a hereditament to which the notice relates.

(5) Where a notice is given pursuant to paragraph (3)(a) to more than one person in respect of the same amount, the billing authority must notify that fact to each person to whom notice is so given.

(6) Where a notice given pursuant to paragraph (3)(a) to a person who is liable for the BID levy relates to a time in the relevant year when paragraph (2)(a) applies and a time when paragraph (2)(b) applies, any payment made by the person under the notice shall be treated as being made towards satisfaction of the amount for which he or she is solely liable unless and until his or her liability in respect of that amount is discharged.

(7) For the purposes of any time to which paragraph (2)(b) applies, where the description of the person who is to be liable for the BID levy requires that the ratepayer should be a charity or trustees for a charity this shall be treated as met if one or more of the persons jointly and severally liable is a charity or (as the case may be) some or all of them are trustees for a charity.

(8) Where any sum paid in respect of an amount calculated by reference to paragraph (2)(b) falls to be repaid, it may be repaid to such of the persons concerned as the billing authority considers appropriate.

(9) Paragraphs (2)(b) and (8) are without prejudice to any right or duty in law or equity (whether under the terms of any trusts on which the hereditament concerned is held or otherwise) of an owner or occupier who has made a payment, or receives a repayment, in respect of a liability under paragraph (2)(b) to recover all or part of the payment from, or to account for all or part of the repayment to, the other owners or occupiers or any beneficiaries interested in the hereditament; but insofar as in any particular case no such right or duty exists (and the owner or occupier is not in consequence of any such provision in law or equity obliged to bear the burden of the payment or entitled to receive the benefit of the payment or contribution), such payments shall be due between the owners or occupiers (as the case may be) as will secure that in respect of a liability falling within paragraph (2)(b) the burden or benefit of the payment or repayment accrues to them in equal shares.

Joint owners and occupiers: enforcement

13.—(1) Part 3 of and Schedules 2 to 4 to the 1989 Regulations shall have effect, with the following modifications, for the recovery of a sum for which persons are liable under section 46 of the Act as applied by paragraph 12.

(2) A reminder notice must be served in accordance with regulation 11(1) and (2) of the 1989 Regulations on every person against whom an application for a liability order is to be made.

(3) Paragraph 12(3) to (6) applies to a reminder notice as it applies to a notice under this Schedule.

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(4) A liability order may be applied for and made against one or more of the persons who are liable for the BID levy concerned in respect of an amount to which paragraph 12(2)(b) applies, whether they have been served with a notice in respect of the amount jointly or severally.

(5) Where a liability order has been made against more than one person in respect of an amount, subject to sub-paragraph (9) distress may be made against one or more of them.

(6) Where distress has been made against more than one person in respect of an amount, a warrant of commitment may be applied for at any time against one of them or different warrants may be applied for against more than one of them.

(7) Where distress has been made against one person only, a warrant of commitment may be applied for against that person.

(8) Where a liability order has been made against more than one person in respect of an amount, and a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) one of them under regulation 16(3) of the 1989 Regulations, no steps, or no further steps, may be taken against any of them by way of distress, bankruptcy or winding up in relation to the amount mentioned in regulation 16(4) of the 1989 Regulations.

(9) Where a liability order has been made against more than one person in respect of an amount —

(a) steps by way of distress, commitment, bankruptcy or winding up may not be taken against a person in respect of the amount while steps by way of another of those methods are being taken against him or her in respect of it; and

(b) subject to sub-paragraph (10), steps by way of distress may not be taken against a person in respect of an amount whilst steps by way of distress are being taken against one of the others in respect of it.

(10) Where a liability order has been made against more than one person in respect of an amount and in making distress against one of them goods jointly owned by him or her and another of them are found, sub-paragraph (9)(b) does not preclude distress being levied against those goods with respect to that amount; but in any subsequent proceedings under regulation 16 of the 1989 Regulations, charges arising under Schedule 3 to the 1989 Regulations from such a distress must be treated as charges relating to the person against whose goods the levy was intended to be made when the jointly owned goods were found, and not as charges relating to the other.

(11) Where —

(a) a liability order has been made against more than one person in respect of an amount; and

(b) a charge has arisen as regards one of them under head B of the Table in paragraph 1 of Schedule 3 to the 1989 Regulations in respect of that amount,

no further charge may be aggregated for the purposes of regulation 14(2) of the 1989 Regulations under that head or head A of that Table in consequence of any subsequent levy or attempted levy against any of them in respect of that amount; and a charge under head A(i) or charges under that head and head A(ii) against one of them must be treated for those purposes as a charge or, as the case may be, charges under that head with respect to the others as well as that one.

(12) Where a liability order is made against one person in respect of an amount, and also against another person or persons (whether at the same time as the order against the first mentioned person or subsequently and whether in respect of all or part of that amount) —

(a) the order made as respects all but the relevant person shall not include under regulation 12(6)(b) or (7) of the 1989 Regulations any additional sum in respect of the costs of obtaining the order against the other or others;

(b) those persons (with the relevant person) must be treated as jointly and severally liable for the amount included in the order against the relevant person in respect of costs;

(c) the order against them must (as regards regulations 12(6)(b) or (7) of the 1989 Regulations) be made in respect of the sum outstanding in relation to it.

(13) For the purposes of sub-paragraph (12), the relevant person is the person against whom the liability order was first made in respect of the amount or, if there are more than one such person, such one of them as the court considers appropriate.

(14) Sub-paragraph (12) is not to be construed as permitting a billing authority to apply under regulation 12(2) of the 1989 Regulations for a liability order against a person in respect of costs alone after an order has been made for those costs against another person.

Enforcement in relation to partnerships

14.—(1) Where persons are liable to pay an amount to which paragraph 12(2)(b) applies as partners in consequence of the service of a notice pursuant to paragraph 12(3)(b), a liability order in relation to it may be applied for and made against them in their firm name; and such an order shall be as effective as if orders were made against each partner concerned in respect of his or her liability for that amount.

(2) If a liability order is made against partners in their firm name in respect of an amount and no order has earlier been made against another person in respect of it, references in paragraph 13(12) to the relevant person shall be construed as references to the partnership.

(3) Without prejudice to regulation 13(2) of the 1989 Regulations, a summons issued pursuant to an application for a liability order against partners in their firm name may be served by leaving it at, or by sending it by post to the partnership at, the principal office of the partnership.

(4) Where a liability order has been made against partners in their firm name in respect of an amount, paragraph 13(9)(b) does not preclude distress being levied against partnership property with respect to that amount; and in any subsequent proceedings under regulation 16 of the 1989 Regulations, the partners must be treated as jointly and severally liable for charges arising under Schedule 3 to those regulations from such a distress.

(5) Where a liability order is made against partners in their firm name, regulation 18(2) of the 1989 Regulations shall have effect as if the reference to a company included a reference to the partnership and the reference to section 221(5)(b) of the Insolvency Act 1986⁽²⁾ were —

- (a) in a case where article 7 of the Insolvent Partnerships Order 1994⁽³⁾ applies, a reference to section 221(5)(c) as applied by that article; or
- (b) in a case where article 8 of that Order applies, a reference to section 221(5) as substituted by paragraph (1)(c) of that article.

(6) Where a liability order is made against partners in their firm name, paragraph 13(9)(a) does not preclude insolvency proceedings being brought against the partnership as well as against members of the partnership, and those proceedings being dealt with in accordance with the Insolvent Partnerships Order 1994.

(2) 1986 c. 45.

(3) S.I.1994/2421; relevant amendments are by S.I. 2002/1308.