



Business Rate Supplements Act 2009

2009 CHAPTER 7

Involvement of ratepayers, etc.

4 Conditions for imposing a BRS

A levying authority may not impose a BRS unless—

- (a) it has published a document that sets out the proposal for the imposition of the BRS (an “initial prospectus”),
- (b) it has consulted the relevant persons on the proposal,
- (c) where there is to be a ballot on the imposition of the BRS, the ballot has been held and the imposition of the BRS approved, and
- (d) it has published a document that sets out the arrangements for the imposition of the BRS (a “final prospectus”).

5 Prospectus

- (1) Any initial or final prospectus must include the information specified in Schedule 1 (and may include such other information as the levying authority thinks appropriate).
- (2) The function of the levying authority of approving a final prospectus before publication is a function that must be discharged only by the whole authority; but that does not apply in the case of the Greater London Authority.
- (3) After publishing an initial or final prospectus, a levying authority must—
 - (a) place an electronic copy of the published prospectus on its website, and
 - (b) make copies of the published prospectus available for inspection at its principal office at all reasonable times of the day.
- (4) In a case where two or more levying authorities are acting jointly by virtue of section 2, each authority must separately—
 - (a) discharge the function of approving a final prospectus before publication, and
 - (b) comply with the duty imposed by subsection (3).

- (5) Regulations may amend Schedule 1 so as to add, vary or omit a description of information.

6 Consultation

- (1) The relevant persons for the purposes of consultation on the proposal in an initial prospectus are—
- (a) each person who will be liable to pay the BRS;
 - (b) each lower-tier authority in relation to the levying authority;
 - (c) such other persons as the levying authority thinks appropriate.
- (2) A person is to be regarded for the purposes of subsection (1)(a) as a person who will be liable to pay a BRS if the levying authority thinks that the person will be liable to pay a chargeable amount for the first day of the chargeable period of the BRS.
- (3) A person is also to be regarded for the purposes of subsection (1)(a) as a person who will be liable to pay a BRS if the levying authority thinks that the person would, but for section 13(7) or (8), be liable to pay a chargeable amount for the first day of the chargeable period of the BRS.
- (4) A person is also to be regarded for the purposes of subsection (1)(a) as a person who will be liable to pay a BRS if the levying authority thinks that the person—
- (a) would, but for section 15 or 16, be liable to pay a chargeable amount for the first day of the chargeable period of the BRS, and
 - (b) will be liable to pay a chargeable amount before the end of that period.
- (5) For the purposes of subsection (1)(c), a levying authority must, in particular, think whether it would be appropriate to consult persons who the authority thinks might become liable to pay a chargeable amount before the end of the chargeable period of the BRS.
- (6) The levying authority must publish a revised version of an initial prospectus if, in the light of the consultation on the proposal in the prospectus, the authority thinks that it is necessary or appropriate to do so.
- (7) A reference in section 5 to an initial prospectus includes a reference to an initial prospectus revised under subsection (6) of this section.
- (8) A reference in subsection (2), (3) or (4) to a chargeable amount does not include a reference to a chargeable amount of zero.

7 Holding of ballot

- (1) There must be a ballot on the imposition of a BRS if—
- (a) A is more than one third of B, or
 - (b) the initial prospectus states that, even though paragraph (a) does not apply in relation to the BRS, the levying authority nevertheless thinks that there should be a ballot on the imposition of the BRS.
- (2) For the purposes of subsection (1)(a)—
- “A” is the amount specified in the initial prospectus as the amount the authority expects to raise from the imposition of the BRS, and

“B” is the amount specified in the initial prospectus as the amount the authority estimates as the total cost of the project to which the BRS relates.

(3) The proposition to be voted on in a ballot on the imposition of a BRS is—

“The [*insert name of levying authority*] proposes to introduce a business rate supplement. The proposal is set out in [*insert title of prospectus*]. Should the proposed business rate supplement be introduced?”

(4) A person is eligible to vote in a ballot on the imposition of a BRS if the person is within section 6(2), (3) or (4).

(5) In a case where a revised initial prospectus is published under section 6(6), a reference in this section to an initial prospectus is a reference to the revised initial prospectus.

8 Approval by ballot

(1) If a ballot on the imposition of a BRS is held, the imposition of the BRS is approved if—

- (a) a majority of the persons voting in the ballot have voted in favour of the imposition of the BRS, and
- (b) A exceeds B.

(2) For the purposes of subsection (1)—

“A” is the aggregate of the rateable values of each hereditament in respect of which a person voting in the ballot has voted in favour of the imposition of the BRS, and

“B” is the aggregate of the rateable values of each hereditament in respect of which a person voting in the ballot has voted against the imposition of the BRS.

(3) For the purposes of subsection (2), the rateable value of a hereditament is its rateable value on the day of the ballot.

9 Regulations about ballots

(1) Regulations may make provision in relation to the holding of a ballot on the imposition of a BRS.

(2) The provision which may be made includes, in particular, provision about—

- (a) the timing of a ballot;
- (b) the form that a ballot may take;
- (c) who is to hold a ballot;
- (d) the conduct of a ballot.

(3) The regulations may, in particular—

- (a) confer functions on a levying authority;
- (b) enable a levying authority to appoint an officer of its to exercise on its behalf a function conferred by virtue of paragraph (a) (a “ballot function”);
- (c) enable a levying authority to delegate to a lower-tier authority in relation to it the exercise of a ballot function in the area of that lower-tier authority;

- (d) enable a levying authority to delegate to a lower-tier authority in relation to it the exercise of a ballot function in the area of each other lower-tier authority in relation to the levying authority;
 - (e) enable a lower-tier authority to which the exercise of a ballot function is delegated by virtue of paragraph (c) or (d) to appoint an officer of its to exercise the function on its behalf.
- (4) Regulations under this section may make provision as to who may cast a vote in a case where the person eligible to vote is a body corporate, partnership or unincorporated association.
- (5) Nothing in subsections (2) to (4) is to be taken as limiting the power conferred by subsection (1).

10 Variations

- (1) A levying authority may vary a BRS in so far as the variation is of a kind that may be made in accordance with the final prospectus.
- (2) Otherwise, a levying authority may vary a BRS only if—
- (a) it has published a document that sets out the proposal for the variation,
 - (b) it has consulted the relevant persons on the proposal,
 - (c) where there was a ballot on the imposition of the BRS or where there is to be a ballot on the proposal by virtue of subsection (7), a ballot on the proposal has been held and the variation approved, and
 - (d) it has published a document that sets out the arrangements for making the variation.
- (3) A document published for the purposes of subsection (2)(a) or (d) must—
- (a) specify the amount that the authority expects to raise from the imposition of the BRS on the assumption that the variation is made (the specified amount to include the amount already raised from the imposition of the BRS),
 - (b) specify the authority's estimate of the total cost of the project to which the BRS relates,
 - (c) specify the day on which the variation will, if made, take effect, and
 - (d) include, to the extent that the authority thinks appropriate, such other information as would be included in an initial or final prospectus if the proposal or arrangements were for the imposition of the BRS as varied.
- (4) Section 5 applies as follows in relation to the publication of a document for the purposes of subsection (2)(a) or (d)—
- (a) subsection (2) of that section applies to the approval of a document before publication for the purposes of subsection (2)(d) as it applies to the approval of a final prospectus before publication;
 - (b) subsection (3) of that section applies to a document published for the purposes of subsection (2)(a) or (d) as it applies to a published initial or final prospectus;
 - (c) subsection (4) of that section applies so far as necessary for the purposes of the applications made by paragraphs (a) and (b) of this subsection.
- (5) The relevant persons for the purposes of consultation on a proposal to vary a BRS are those who would be the relevant persons if the proposal were for the imposition of the BRS as varied; for that purpose, section 6 applies as if references to the first

- day of the chargeable period of the BRS were references to the day specified for the purposes of subsection (3)(c).
- (6) Section 6(6) applies in relation to a document published for the purposes of subsection (2)(a) as it applies in relation to an initial prospectus.
- (7) There must be a ballot on a proposal to vary a BRS if—
- (a) A is more than one third of B, or
 - (b) the document published for the purposes of subsection (2)(a) states that, even though paragraph (a) of this subsection does not apply in relation to the BRS, the levying authority nevertheless thinks that there should be a ballot on the proposal.
- (8) For the purposes of subsection (7)(a)—
- “A” is the amount specified for the purposes of subsection (3)(a) in the document published for the purposes of subsection (2)(a);
 - “B” is the amount specified for the purposes of subsection (3)(b) in that document.
- (9) In a case where a revised document is published by virtue of subsection (6), a reference in subsection (7) or (8) to a document published for the purposes of subsection (2)(a) is a reference to the revised document.
- (10) The proposition to be voted on in a ballot on a proposal to vary a BRS is—
- “The [*insert name of levying authority*] proposes to vary the business rate supplement set out in [*insert title of prospectus and title of any document setting out a variation to the BRS*]. The proposal is set out in [*insert title of document setting out proposal*]. Should the proposed variation be made?”
- (11) A person is eligible to vote in a ballot on a proposal to vary a BRS if the person is within section 6(2), (3) or (4) (as applied by subsection (5) above); and sections 8 and 9 apply to a ballot on a proposal to vary a BRS as they apply to a ballot on a proposal for the imposition of a BRS.
- (12) A variation the purpose of which is to increase the number of persons liable to pay a chargeable amount may not be made in reliance on subsection (1) (and that subsection is to be read accordingly).