

---

STATUTORY INSTRUMENTS

---

**2009 No. 2154 (W.179)**

**RATING AND VALUATION, WALES**

**The Non-Domestic Rating (Deferred  
Payments) (Wales) Regulations 2009**

<i>Made</i>	- - - -	<i>31 July 2009</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>4 August 2009</i>
<i>Coming into force</i>	- -	<i>28 August 2009</i>

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 62, 143(1) and (2) and 146(6) of, paragraph 6(5) and (6) of Schedule 8 to, and paragraphs 1 to 4 of Schedule 9 to the Local Government Finance Act 1988(1), make the following Regulations:

**Title, application and commencement**

1. These Regulations, which apply to Wales, may be cited as the Non-Domestic Rating (Deferred Payments) (Wales) Regulations 2009 and come into force on 28 August 2009.

**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(2) are amended as follows.

(2) After regulation 7B (Deferred payments: special provision in relation to financial years beginning on 1 April 2009, 2010 and 2011) insert—

---

(1) 1988 c. 41. Paragraph 1 of Schedule 9 has been prospectively amended by Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 (c. 15). Paragraph 2(2)(ga) was inserted by paragraph 44(2) of Schedule 5 to the Local Government and Housing Act 1989 (c. 42); paragraph 2(2)(h) was amended by paragraph 44(3) of that Schedule. 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.

(2) S.I. 1989/1058, to which there are amendments not relevant to these Regulations.

**“Deferred payments: special provision in relation to Wales for the financial years beginning on 1 April 2009, 2010 and 2011**

7C. Schedule 1D which contains special provision in relation to payments under demand notices relating to financial years beginning on 1 April 2009, 1 April 2010 and 1 April 2011, must have effect.”.

(3) After Schedule 1C, insert Schedule 1D set out in Schedule 1 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 List) Regulations 1989(3) are amended as follows.

(2) After regulation 7 (payments under demand notices: further provision) insert—

**“Deferred payments: special provision in relation to Wales for the financial years beginning on 1 April 2009, 2010 and 2011**

7B. Schedule 1B, which contains special provision in relation to payments under demand notices relating to financial years beginning on 1 April 2009, 1 April 2010 and 1 April 2011, must have effect.”.

(3) After Schedule 1A insert Schedule 1B set out in Schedule 2 to these Regulations.

**Modification of the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993**

4.—(1) The Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993(4) must apply in relation to the financial years beginning on 1 April 2010 and 1 April 2011 as if for the definition of “the relevant year” in regulation 2 (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) (Wales) Regulations 2009), the notice relates to more than one chargeable financial year “the relevant year” means the financial year beginning on 1 April 2010 or 1 April 2011 (as the case may be);”.

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

5. For the financial year beginning on 1 April 2009, regulation 6 (recalculation of provisional amounts) of the Non-Domestic Rating Contributions (Wales) Regulations 1992(5) shall have effect as if there were omitted paragraphs (2)(b) and (4).

31 July 2009

*Brian Gibbons*  
Minister for Social Justice and Local  
Government, one of the Welsh Ministers

---

(3) S.I. 1989/2260, to which there are amendments not relevant to these Regulations.  
(4) S.I. 1993/252, to which there are amendments not relevant to these Regulations.  
(5) S.I. 1992/3238, to which there are amendments not relevant to these Regulations.

## SCHEDULES

### SCHEDULE 1

Regulation 2

### “SCHEDULE 1D

Regulation 7C

Deferred Payment Scheme in relation to Wales for the  
financial years beginning on 1 April 2009, 2010 and 2011

#### **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 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 1 April 2009; 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 1 April 2009; and

(b) the ratepayer has notified the billing authority concerned in writing of their wish to apply for deferral of payment of business rates payable in respect of the financial year beginning on 1 April 2009 no later than 31 December 2009.

(2) Where on or before the day of notification in accordance with paragraph 1(1)(b), 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 notification given in accordance with paragraph 1(1)(b).

(4) In this Schedule—

“current demand” means the notice mentioned in sub-paragraph (1)(a)(i) or any subsequent notice given under paragraph 7(2) of Schedule 1;

“deferrable amount” has the meaning given in paragraph 4;

“deferral day” means the day which is 22 days from the day of notification mentioned in paragraph 1(1)(b);

“deferral notice” means a notice served under paragraph 2;

“remaining amount” means the amount calculated under paragraph 4; and

“the RPI Increase Figure” means the amount calculated under paragraph 3.

#### **Calculating the remaining amount**

2. The billing authority shall on or as soon as practicable after the day on which they were notified by the ratepayer in accordance with paragraph 1(1)(b) 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—

4.8

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) (without modification) 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.

### **The RPI Increase Figure**

3. The amount to be calculated under this paragraph is that amount which is 3 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 per cent of the aggregate of the amounts estimated for those purposes in relation to the hereditaments concerned.

### **The deferrable amount**

4.—(1) Where the remaining amount is less than or equal to the RPI Increase Figure the amount which the ratepayer is eligible to defer (“the deferrable amount”) shall be an amount which is equal to the remaining amount.

(2) Where the remaining amount is greater than the RPI Increase Figure the deferrable amount shall be an amount which is equal to the RPI Increase Figure and the rest of the remaining amount (“the non-deferrable amount”) shall be paid in accordance with paragraph 7.

### **Deferral notice**

5.—(1) Where a notification is made under paragraph 1(1)(b) which relates to the current demand, as soon as practicable after the day of notification 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 7 (payment of the non-deferrable amount);
- (c) the amount of the deferrable amount payable in the financial year beginning on 1 April 2010 in accordance with paragraph 10; and
- (d) the amount of the deferrable amount payable in the financial year beginning on 1 April 2011 in accordance with paragraph 10.

(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 current demand.

(4) Regulations 7(3), 7(4) and 8 must 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**

6. Where a notification, made by the ratepayer under paragraph 1(1)(b) 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 notification 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**

7.—(1) Subject to sub-paragraph (3), the non-deferrable amount calculated pursuant to paragraph 4(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 5(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) must 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 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**

8. Paragraph 6 (and so far as applicable paragraph 8) of Part II of Schedule 1 shall apply to the deferral notice as if it were a demand notice.

### **Adjustments during the financial year beginning on 1 April 2009**

9.—(1) This paragraph applies where—

- (a) a deferral notice has been served on a ratepayer under paragraph 5;
- (b) on a day falling within the financial year beginning on 1 April 2009 (“the relevant day”) any factor or assumption used to determine the RPI Increase Figure or the deferrable amount or by reference to which the estimate of the amount, mentioned in paragraph 5(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 1 April 2009 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 RPI Increase Figure;
- (c) recalculate the deferrable amount and the non-deferrable amount under paragraph 4;

- (d) adjust the instalments (if any) payable in the financial year beginning on 1 April 2009 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 1 April 2010 under paragraph 10; and
  - (iv) the amount of the deferrable amount payable in the financial year beginning on 1 April 2011 under paragraph 10.

(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 II 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 rate.

(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) above, or has been paid or credited by way of interest under the Non-Domestic Rating (Payment of Interest) Regulations 1990(6).

(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.

---

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

### **Payment of the deferrable amount**

**10.**—(1) The deferrable amount shall be payable in equal proportions in the financial years beginning on 1 April 2010 and 1 April 2011.

(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 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 1 April 2010 or 1 April 2011 (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 14, 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 1 April 2010 or 1 April 2011 (as the case may be); and paragraph 3 of Schedule 1 shall not apply when calculating the instalments payable in respect of the deferrable amount.

(4) Before, on or as soon as practicable after 1 April 2010 or 1 April 2011 (as the case may be) the billing authority shall serve a notice on the ratepayer which is to 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 1 April 2010, the relevant proportion payable in the financial year beginning on 1 April 2011.

(5) Where instalments payable in respect of the 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
- (b) in any other case, to the instalment due in respect of the deferrable amount first and the remainder (if any) to the instalment due in that month payable in respect of the financial year beginning on 1 April 2010 or 1 April 2011 (as the case may be).

### **Modification of regulation 8**

**11.**—(1) Where a billing authority has served a notice under paragraph 10(4), regulation 8 (failure to pay instalments) shall have effect as regards the 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 1D, and
- (c) any such instalment is not paid in accordance with Schedule 1 or, as the case may be, Schedule 1D,

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 2010/11 or 2011/12**

12.—(1) Subject to sub-paragraph (2), paragraph 6 (and so far as applicable paragraph 8) of Part II of Schedule 1 shall apply to a notice issued under paragraph 10(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 1 April 2010 or 1 April 2011 (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 1 April 2009 in relation to the hereditament.”.

### **Adjustment of instalments during 2010/11 or 2011/12**

13.—(1) This paragraph applies where—

- (a) a notice has been served on a ratepayer in accordance with paragraph 10;
- (b) on a day (“the relevant day”) any factor or assumption by reference to which the estimate of the amount mentioned in paragraph 5(1)(a) (for the purposes of the deferral notice) or the revised estimate mentioned in paragraph 9(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 10(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 mentioned 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 1 April 2010, the revised amount payable in the financial year beginning on 1 April 2011.

(3) The revised amount mentioned in sub-paragraph (2)(b)(i) is the amount payable for the financial year beginning on 1 April 2009 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 II of these Regulations—

- (a) shall be repaid if the ratepayer so requires; or
- (b) in any other case shall (as the billing authority determines) either be repaid or credited against any subsequent liability of the ratepayer to pay anything by way of non-domestic rate.

(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.

#### **Substitution of regulation 4**

**14.**—(1) 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 1 April 2010 or 1 April 2011, these Regulations shall have effect as if for regulation 4 (the requirement for demand notices) there were substituted—

“(1) For each chargeable financial year a billing authority shall, in accordance with regulations 5 to 7, serve a notice in writing on every ratepayer of the authority in relation to the year.

(2) Subject to sub-paragraph (3), different demand notices shall be served for different chargeable financial years.

(3) Where a deferral notice under paragraph 5 of Schedule 1D has been served on a ratepayer, a single demand notice may be served on the ratepayer in respect of the hereditament to which that notice relates, which relates to the amount payable in respect of the chargeable financial year beginning on 1 April 2010 or 1 April 2011 (as the case may be) and to the payment of deferred rates in respect of the financial year beginning on 1 April 2009 in accordance with paragraph 10 of Schedule 1D.

(4) If pursuant to sub-paragraph (3), a single demand notice relates to different chargeable financial years, the amounts due under it, and the times at which they fall due, shall be determined as if separate notices were issued.

(5) A demand notice shall be served with respect to the amount payable for every hereditament as regards which a person is a ratepayer of the authority, though a single notice may relate to the amount payable with respect to more than one such hereditament.

(6) If a single demand notice relates to the amount payable with respect to more than one hereditament, subject to paragraphs 5 and 8 of Schedule 1 the amounts due under it, and the times at which they fall due, shall be determined as if separate notices were issued in respect of each hereditament.””

SCHEDULE 2

Regulation 3

“SCHEDULE 1B

Regulation 7B

Deferred Payment Scheme in relation to Wales for the  
financial years beginning on 1 April 2009, 2010 and 2011

#### **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 Welsh Ministers 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 1 April 2009; or

(ii) has entered into an agreement with the Welsh Ministers under regulation 7(3) which makes provision about payment of the Welsh Ministers' estimate of the amount payable in respect of the financial year beginning on 1 April 2009; and

(b) the ratepayer has notified the Welsh Ministers in writing of their wish to apply for deferral of payment of business rates payable in respect of the financial year beginning on 1 April 2009 no later than 31 December 2009.

(2) Where on or before the day of notification in accordance with paragraph 1(1)(b) 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 Welsh Ministers may decide that this Schedule shall not apply.

(3) Where the Welsh Ministers decide that this Schedule shall not apply, the Welsh Ministers shall serve a notice of that decision on the ratepayer as soon as practicable after the day of notification given in accordance with paragraph 1(1)(b), by the ratepayer.

(4) In this Schedule—

“current demand” means the notice mentioned in sub-paragraph (1)(a)(i) or any subsequent notice given under paragraph 7(2) of Schedule 1;

“deferrable amount” has the meaning given in paragraph 4;

“deferral day” means the day which is 22 days from the day of service of the application mentioned in paragraph 1(1)(b);

“deferral notice” means a notice served under paragraph 5; and

“remaining amount” means the amount calculated under paragraph 2.

#### **Calculating the remaining amount**

2. The Welsh Ministers shall on or as soon as practicable after the day on which they were notified in accordance with paragraph 1(1)(b) by the ratepayer calculate the amount remaining to be paid under 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.

#### **The RPI Increase Figure**

3. The amount to be calculated under this paragraph is that amount which is 3 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 deferrable amount**

4.—(1) Where the remaining amount is less than or equal to the RPI Increase Figure the amount which the ratepayer is eligible to defer (“the deferrable amount”) shall be an amount which is equal to the remaining amount.

(2) Where the remaining amount is greater than the RPI Increase Figure the deferrable amount shall be an amount which is equal to the RPI Increase Figure and the rest of the remaining amount (“the non-deferrable amount”) shall be paid in accordance with paragraph 7.

### **Deferral notice**

5.—(1) Where a notification is made under paragraph 1(1)(b) which relates to the current demand, as soon as practicable after the day of notification the Welsh Ministers 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 7 (payment of the non-deferrable amount);
- (c) the amount of the deferrable amount payable in the financial year beginning on 1 April 2010 in accordance with paragraph 10; and
- (d) the amount of the deferrable amount payable in the financial year beginning on 1 April 2011 in accordance with paragraph 10.

(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 the current 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**

6. Where an application relates to the agreement mentioned in paragraph 1(1)(a)(ii) the Welsh Ministers, where the ratepayer so requires, shall 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**

7.—(1) Subject to sub-paragraph (3), the non-deferrable amount calculated pursuant to paragraph 4(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 5(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 paragraph 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**

8. Paragraph 6 (and so far as applicable paragraph 8) of Part II of Schedule 1 shall apply to the deferral notice as if it were a demand notice.

### **Adjustments during the financial year beginning on 1 April 2009**

9.—(1) This paragraph applies where—

- (a) a deferral notice has been served on a ratepayer under paragraph 5;
- (b) on a day falling within the financial year beginning on 1 April 2009 (“the relevant day”) any factor or assumption used to determine the RPI Increase Figure or the deferrable amount, or by reference to which the estimate of the amount mentioned in paragraph 5(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 Welsh Ministers 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 1 April 2009 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 RPI Increase Figure;
- (c) recalculate the deferrable amount and the non-deferrable amount under paragraph 4;
- (d) adjust the instalments (if any) payable in the financial year beginning on 1 April 2009 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 1 April 2010 under paragraph 10; and
  - (iv) the amount of the deferrable amount payable in the financial year beginning on 1 April 2011 under paragraph 10.

(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 Welsh Ministers 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 II of these Regulations—

- (a) shall be repaid if the ratepayer so requires; or
- (b) in any other case shall (as the Welsh Ministers determine) be repaid or credited against any subsequent liability of the ratepayer to pay anything to the Welsh Ministers by way of non-domestic rate.

(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) above, or has been paid or credited by way of interest under the Non-Domestic Rating (Payment of Interest) Regulations 1990(7).
- (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 deferrable amount**

**10.**—(1) The actual deferrable amount shall be payable in equal proportions in the financial years beginning on 1 April 2010 and 1 April 2011.

(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 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 1 April 2010 or 1 April 2011 (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 14, 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 1 April 2010 or 1 April 2011 (as the case may be); and paragraph 3 of Schedule 1 shall not apply when calculating the instalments payable in respect of the deferrable amount.

(4) Before, on or as soon as practicable after 1 April 2010 or 1 April 2011 (as the case may be) the Welsh Ministers 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 1 April 2010, the relevant proportion payable in the financial year beginning on 1 April 2011.

(5) Where instalments payable in respect of the deferrable amount are calculated pursuant to provision made in sub-paragraph (3), and the Welsh Ministers receive 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 deferrable amount first and the remainder (if any) to the instalment due in that month payable in respect of the financial year beginning on 1 April 2010 or 1 April 2011 (as the case may be).

#### **Modification of regulation 8**

**11.**—(1) Where the Welsh Ministers have served a notice under paragraph 10(4), regulation 8 (failure to pay instalments) shall have effect as regards the deferrable amount as if, for paragraph (1) of that regulation there were substituted—

---

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

“(1) Where—

- (a) a demand notice has been served by the Welsh Ministers on a ratepayer,
- (b) instalments are payable under the notice in accordance with Schedule 1 or Schedule 1B, and
- (c) any such instalment is not paid in accordance with Schedule 1 or, as the case may be, Schedule 1B,

the Welsh Ministers 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 2010/11 or 2011/12**

**12.**—(1) Subject to sub-paragraph (2), paragraph 6 (and so far as applicable paragraph 8) of Part II of Schedule 1 shall apply to a notice issued under paragraph 10(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 1 April 2010 or 1 April 2011 (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 Welsh Ministers 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 1 April 2009 in relation to the hereditament.”.

#### **Adjustment of instalments during 2010/11 or 2011/12**

**13.**—(1) This paragraph applies where—

- (a) a notice has been served on a ratepayer in accordance with paragraph 10;
- (b) on a day (“the relevant day”) any factor or assumption by reference to which the estimate of the amount mentioned in paragraph 5(1)(a) (for the purposes of the deferral notice) or the revised estimate mentioned in paragraph 9(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 Welsh Ministers shall, on or as soon as practicable after the relevant day—

- (a) adjust the amounts mentioned in paragraph 10(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 1 April 2010, the revised amount payable in the financial year beginning on 1 April 2011.

(3) The revised amount mentioned in sub-paragraph (2)(b)(i) is the revised amount payable for the financial year beginning on 1 April 2009 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 Welsh Ministers 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 Welsh Ministers determine) be repaid or credited against any subsequent liability of the ratepayer to pay anything to the Welsh Ministers by way of non-domestic rate.

(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.

#### **Substitution of regulation 4**

**14.**—(1) Where this Schedule applies and the Welsh Ministers are required by these Regulations to serve a demand notice on the ratepayer in respect of chargeable financial years beginning on 1 April 2010 or 1 April 2011, these Regulations shall have effect as if for regulation 4 (the requirement for demand notices) there were substituted—

“(1) For each chargeable financial year the Welsh Ministers must, in accordance with regulations 5 to 7, serve a notice in writing on every ratepayer in relation to the year.

(2) Subject to sub-paragraph (3), different demand notices shall be served for different chargeable financial years.

(3) Where a deferral notice under paragraph 5 or a subsequent notice under paragraph 9(2)(e) of Schedule 1B has been served on a ratepayer, a single demand notice may be served on the ratepayer which relates to the amount payable in respect of the chargeable financial year beginning on 1 April 2010 or 1 April 2011 (as the case may be) and to the deferred payment of rates in respect of the financial year beginning on 1 April 2009 in accordance with paragraph 10 of Schedule 1B.

(4) If pursuant to paragraph (3), a single demand notice relates to different chargeable financial years, the amounts due under it, and the times at which they fall due, shall be determined as if separate notices were issued.””

---

#### **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 payable in respect of the financial year beginning on 1 April 2009 (“the financial year 2009/10”). These Regulations also make consequential modifications to the Non-Domestic Rating Contributions (Wales) Regulations 1992 and the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993.

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 1D into the Local Lists Regulations and a new Schedule 1B into the Central Lists Regulations to provide that where a ratepayer who is subject to non-domestic rates in respect of the financial year 2009/10 satisfies certain conditions, they can defer payment of a specified proportion of that liability to the financial years beginning on 1 April 2010 and 1 April 2011.

The conditions that must be satisfied before a ratepayer can take advantage of deferral are set out in paragraph 1 of new Schedule 1D and paragraph 1 of new Schedule 1B together with provision for the ratepayer to notify the billing authority of his wish to defer.

In relation to the Local Lists Regulations paragraphs 2 to 4 of new Schedule 1D make provision about the calculations that the billing authority must carry out in order to establish the amount that a ratepayer may defer (“the deferrable amount”) and the amount which must be paid in the financial year 2009/10 (“the non-deferrable amount”).

Paragraphs 5 to 7 make provision about payment of the non-deferrable amount. Paragraph 8 makes provision about the cessation of instalments where the ratepayer ceases to occupy the property. Paragraph 9 makes provision about the adjustment of instalments during the 2009/10 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 10 makes provision about how the deferrable amount is to be paid in the financial years beginning on 1 April 2010 and 1 April 2011.

Paragraph 11 modifies regulation 8 of the Local Lists Regulations so that where a ratepayer fails to pay any instalment due in respect of the deferrable amount the provisions in those Regulations that deal with enforcement apply in respect of that amount.

Paragraphs 12 and 13 deal with the cessation and adjustment of instalments in the financial years beginning on 1 April 2010 and 1 April 2011.

Paragraph 14 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 2010/11 and 2011/12, issue a single notice which relates to the amount payable in respect of that year and to payment of the deferrable amount.

Paragraphs 2 to 14 of new Schedule 1B to the Central Lists Regulations make equivalent provision in relation to the payment of rates in the financial year beginning on 1 April 2009/10 by ratepayers whose names appear on the central rating list.

Regulation 4 of these Regulations modifies the definition of “relevant year” in regulation 2 of the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993 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 1 April 2010 or 1 April 2011 and to payment of the deferrable amount, the notice need only include the information required by the Demand Notice Regulations as it relates to the financial year beginning on 1 April 2010 or 2011 (as the case may be).

Regulation 5 of these Regulations modifies regulation 6 (recalculation of provisional amounts) of the Non-Domestic Rating Contributions (Wales) Regulations 1992 (“the 1992 Regulations”) in respect of the financial year 2009/10. The 1992 Regulations make provision about the calculation of non-domestic rating contributions which billing authorities are required to make to the Welsh Ministers. The modification, which applies in relation to the financial year 2009/10, 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 rating contributions as a result of ratepayers deferring payment of rates relating to the financial year 2009/10 under these Regulations.

