

## 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

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under the current demand or under the agreement referred to in paragraph 1(1)(a)(ii) in accordance with the formula—

*A - B*

where—

- a A equals the amount last estimated under regulation 6(1) for the purposes of the current demand or pursuant to provision made in the agreement mentioned in paragraph 1(1)(a)(ii); or if pursuant to regulation 4(3) (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;

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- (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(1).

(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.

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(1) [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.”.”