WELSH STATUTORY INSTRUMENTS

2009 No. 2154 (W.179)

RATING AND VALUATION, WALES

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

Made - - - -	*31 July 2009*
Laid before the National Assembly for Wales - -	*4 August 2009*
Coming into force - -	*28 August 2009*

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).

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

31 July 2009

(**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—

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;