



Business Rates Deferral Scheme

Administrative Guidance



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Letter from the Minister of State

Dear Chief Financial Officers

I am writing to thank you and your colleagues in advance for delivering the business rates deferral scheme.

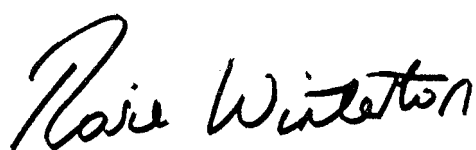
We all know local businesses in our communities that are struggling during these difficult times. Many of these enterprises just need a little help to see them through as the economy recovers. The deferral scheme will provide this real help – allowing businesses to spread payment of increases in their 2009-10 rates bills over three years.

The Non-Domestic Rating (Deferred Payments) (England) Regulations 2009 (SI 2009/1597) which implement the scheme are due to come into force on the 31st July 2009. They can be found at: www.opsi.gov.uk/si/sis06-07

Businesses will be able to apply for a deferral from that day. I know you will be preparing to send out application forms and process them as quickly as possible, and so provide real help rapidly to your local businesses. This guidance is designed to support you and your colleagues in this and should be seen as supplementary to, and not a substitute for, the Regulations. It covers the key elements of the policy, including examples for calculating ratepayer bills under a number of different scenarios, and the actions necessary to administer the scheme. Provided with this guidance is a letter, flyer and application form for you to send to all ratepayers in your area from 31 July.

My colleagues and I recognise the hard work implementing the scheme will entail for ratings officials across England. We will ensure that each authority receives its share of the funding we are providing over the summer to cover the net additional costs to local government of administering the scheme, in line with our new burdens policy. Your efforts will make an important contribution to the economic recovery and provide real help to businesses when they most need it.

Yours Faithfully

A handwritten signature in black ink that reads "Rosie Winterton". The signature is written in a cursive, flowing style.

The Rt. Honourable Rosie Winterton
Minister of State for Local Government

Contents

Section 1: Background and rationale	6
1.1 RPI increase	6
1.2 End of transitional relief	6
Section 2: Core policy elements	8
Implementation Process Flow Chart	9
Section 3: Administrative policy and actions	10
3.1 Eligibility	10
3.2 Application and new payments	11
3.3 Calculating the deferred amounts	14
3.4 Reduced instalment payments	22
3.5 Re-billing	22
3.6 Repayment and future year bills	24
3.7 Enforcement	24
3.8 Payment allocation and arrears in future years	25
Section 4: Toward implementation	26
4.1 Covering the costs of new burdens	27
4.2 Monitoring and reporting	27

Section 1

Background and rationale

The Chancellor announced on 31 March that the Government will enable businesses to defer payment of a proportion of the increase in their 2009-10 business rates bills. The deferred payments will be paid in 2010-11 and 2011-12.

This original announcement was re-confirmed and clarified further in the Budget on 22 April. In the Budget, the Government stated that ratepayers could defer 60 per cent of the increase in their 2009-10 rates bills caused by: the RPI adjustment to the non-domestic rates multiplier; and the end of the transitional relief scheme for the 2005 revaluation period.

1.1 RPI increase

Business rates are increased in April each year to take account of inflation as measured by the Retail Price Index (RPI) in the preceding September. This is a consistent approach since the introduction of national business rates in 1990. In September 2008, RPI was 5 per cent, much higher than the level of RPI in March 2009 which was -0.4 per cent. Because the increase in 2009-10 business rates is based on the September 2008 RPI figure, ratepayers are facing a significant increase in their bills from 1 April 2009.

1.2 End of transitional relief

Significant increases in the 2009-10 business rates bills will additionally affect ratepayers whose property has come out of the 2005 transitional relief period. Business rates property revaluations take place every five years. The last revaluation was conducted on 1 April 2005 and the next will take place on 1 April 2010. Transitional arrangements were put in place after the 2005 revaluation to phase in large changes in rates bills by putting in place annual caps on increases.

The transition period from 1 April 2005 lasted for four years, ending in 2008-09, whereas previous transitional periods had lasted five years. The rationale for the four-year period was to ensure that ratepayers paid their full bill during the life of the 2005 rating list. However, this could mean higher rates bills in 2009-10 for as many as 100,000 ratepayers occupying properties coming out of transition.

Compounding the impact of these potentially significant increases in 2009-10 rates bills is of course the severity of the economic downturn. Many businesses have faced cash flow difficulties as consumer spending has declined and credit access tightened. By allowing ratepayers to defer a portion of the increase in their 2009-10 bill stemming from the RPI adjustment and end of the 2005 transitional relief scheme, businesses should be better able to manage cash flow as the economy recovers.

Section 2

Core policy elements

The scheme was announced by the Chancellor of the Exchequer on 31 March 2009 and reconfirmed in the 2009 Budget. The Budget Statement said:

“The Government will enable business to spread 60% of the RPI inflation up-rating to their business rates in 2009-10 over three years to 2011-12. The Government will also allow those affected by the end of the 2005 transitional relief scheme to spread payment of the increase in their bills over the three years.”

The Non-Domestic Rating (Deferred Payments) (England) Regulations 2009 (No 1597) (“the Deferred Payments Regulations”) give effect to this announcement, setting out what can be deferred and when it has to be paid back. Schedule 1 of the Deferred Payment Regulations contains a new schedule – Schedule 1B – which provides the detail of the scheme and which will be inserted into the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (“the 1989 Regulations”) once the Deferred Payments Regulations come into force.

The core policy elements of the scheme are that:

- **All ratepayers with outstanding 2009-10 rates liabilities can defer 3 per cent of their total 2009-10 bill**, which is equivalent to 60 per cent of the increase in 2009-10 bills resulting from the annual RPI inflation-adjustment.
- **Where applicable, ratepayers can defer an additional 60 per cent of the increase in their 2009-10 bills due to the end of the 2005 transitional relief scheme.** An estimated 100,000 ratepayers will be in properties coming out of transitional relief this year. The regulations set out that calculating this amount – which would be added to the 3 per cent in determining the overall deferred amount – should be done by looking at the actual amount of transitional relief the property received as of 31 March 2009.
- **Deferring ratepayers will have to pay back the deferred amount during the next two fiscal years in equal portions: 50 per cent in 2010-11; and 50 per cent in 2011-12.** The regulations allow ratepayers to defer payment of a proportion of their 2009-10 liability to 2010-11 and 2011-12, however, the 2009-10 liability remains distinct from those future years’ liabilities.

Implementation Process

The rest of this guidance document provides details on such matters as the processing of applications, eligibility, the calculation of the deferrable amount, and billing and enforcement. This flowchart provides a quick reference to implementation when the scheme goes live but is not comprehensive and should not be used as a substitute for the Regulations or the guidance.

Before 31 July billing authorities should tailor the package for ratepayers provided with this guidance by adding contact details and prepare packages for posting to each of the ratepayers in their area.



On 31 July the regulations come into force and the scheme goes live.
Billing authorities send to each ratepayer the cover letter, information flyer, application form package.



Billing authority receives application for deferral and checks whether the ratepayer is eligible for deferral (see page 10).

Billing authorities should prioritise the processing of deferrals according to the speed of turnaround that is required in each case (see section 3.2).

Where the next instalment is due under the existing bill on or before 21 days from the date of receipt of the application, that instalment should not be reduced as a result of deferral. However, any instalments due after 21 days from receipt of application should be reduced by the deferral and billing authorities should process applications in time for this to occur.

If you have difficulty processing claims to the required deadline in the first month, for instance due to delays in securing software updates from their provider, you should begin processing applications on your current system and we would encourage you to consider prioritising applications (for instance from businesses that you know to be in hardship, that are affected by the end of transitional relief, small businesses etc)



All ratepayers that apply for deferral and are eligible defer 3% of their entire 2009-10 bill



Was the property that the ratepayer occupies receiving Transitional Relief in 2008-09? Or, if the property was created from a split or merger of an existing property after 31st March 2009, did one or more of the old properties out of which it was formed receive transitional relief in 2008-09?

If yes, the ratepayer MUST defer an additional amount based on the amount of Transitional Relief received on 31 March 2009 and adjusted according to the relevant circumstances (such as the number of days in occupation in 2009-10, any reliefs received and whether the property was formed from one that split or merged). The method for calculating this amount is set out in the guidance at section 3.3.



Reduce the remaining instalments by the deferrable amount. Instalments due 21 days or less from the date the application is received are not reduced.



Send a new bill showing the new schedule of payments for 2009-10, the total amount deferred into 2010/11 and the total amount deferred in 2011/12 (both of which are 50% of the deferrable amount).

Section 3

Administrative policy and actions

Beyond core policy elements, the regulations also set out further policy on: eligibility; the application process; the means of calculating the deferred amount; re-billing ratepayers; and the treatment of payments in future years.

3.1 Eligibility

Billing authorities are required to grant deferral to all businesses that pay rates in 2009-10 and who apply for the scheme, except:

- where the ratepayer has already paid the 2009/10 rates liability in full. This is because the regulations implementing the deferral scheme cannot be applied retrospectively so refunds cannot be provided
- where the ratepayer is due to pay the 2009/10 rates liability in full within 21 days of the authority receiving the application, when deferral may be granted at the billing authority's discretion and provided it can make the necessary adjustments to its payment schedules in advance of the final instalment being collected (as noted above, once the final instalment has been collected, refunds cannot be provided)
- where the ratepayer is in default and has lost the right to pay by instalments, when deferral may be granted at the billing authority's discretion. Billing authorities retain discretion to enter into special arrangements with ratepayers in financial difficulty and facing recovery action. Given the challenging economic conditions facing many ratepayers, the Government encourages the pursuit of such arrangements where practicable.

If a ratepayer who applied for the deferral scheme is found to be ineligible for the reasons mentioned above, the billing authority should inform them in writing that they are not eligible and provide the reason for this determination.

Ratepayers who take up occupation during 2009-10 are eligible for deferral; the amount that can be deferred will be pro-rata to the period that they occupy the property during 2009-10.

3.2 Application and new payments

The regulations make clear that ratepayers will have to apply to billing authorities to be granted deferral. Some businesses will have decided it is in their interests to discharge their liabilities in year, and so it would not be appropriate to grant deferral automatically (effectively making it mandatory).

Billing authorities should add their contact details and send the letter, flyer leaflet and application form provided to all ratepayers in their area as soon as possible once the regulations come into force on 31 July.

The letter asks ratepayers to send back a signed application form noting the address and reference number of the property to be granted deferral. The regulations allow businesses with more than one property in a billing authority area to make a single application for all their properties in that area and billing authorities should accommodate such applications.

We would encourage authorities to make arrangements to deal with enquiries about the scheme, and consider placing information on their website.

Once an application is received, you will need to:

- establish that the ratepayer is eligible for deferral (see 3.1 above)
- calculate the amount that the ratepayer can defer. To ensure you correctly calculate how much can be deferred you will need to:
 - establish whether the property the applicant occupies was in transition as of 31 March 2009, in which case 3.3 below provides guidance on the calculation
 - establish whether it was created by a split or merger from a property that was in transition as of 31 March 2009, in which case examples 8 and 10 provide guidance on the calculation
 - if the property was empty on 31 March 2009 and was exempt from empty property rates on that day, you will need to check whether the property was in transition on the last chargeable day in 2008-09 prior to the exempt period.

Ratepayers in properties that were in transition must defer both 3 per cent of their 2009-10 bill and the 60 per cent they can defer against the amount of transitional relief the property received as of 31 March 2009; they do not have a choice whether to defer one amount or the other.

- amend payment schedules accordingly and issue a revised demand notice (see 3.3 and 3.4 below).

The regulations provide **21 days for applications to be processed and instalments adjusted**. So if the ratepayer's next instalment is due more than 21 days from the receipt of the application, they should see a reduction in their next bill. If you have difficulty processing claims to the required deadline in the first month, for instance due to delays in securing software updates from your provider, you should begin processing applications on your current system and we would encourage you to consider prioritising applications (for instance, from businesses in hardship/affected by the end of transitional relief/small businesses etc).

Applications will be allowed until 31 March 2010 so that late or new ratepayers can benefit from the scheme. However, as explained above **ratepayers will need to ensure that the authority receives their application no later than 21 days in advance of their final instalment**. For many ratepayers who pay in 10 monthly instalments – the final payment being due in early January – this will mean making the application for deferral by early December at the latest.

Period during which billing authorities must carry out calculations and send out new bill (or “deferral notice”)

As explained above, in calculating the amount to be paid by the ratepayer under the existing bill the billing authority must take into account any instalment falling due on or before the day which is 21 days from the day of service of the application. Any such instalment is payable by the ratepayer under the existing demand notice and is not affected by the application for deferral.

What the 21 day period means in practice is that the ratepayer should see the benefit of the deferral reflected in any instalment which is due after 21 days from the day of service of their application.

The other time-related requirement is that the new bill should be issued at least seven days before the day on which the first instalment which relates to payment of the non-deferrable amount is due.

Two examples of what the timings in the Regulations mean in practice are as follows:

EXAMPLE 1***Cases where a quick turn around is required***

- instalments payable on 1st of the month
- application served on 10 October
- any instalment falling due on or before 31 October is payable under the existing bill and will be unaffected by the application for deferral
- next payment due under existing bill on 1 November. Since 1 November falls after 31 October the ratepayer should see the benefit of deferral reflected in their November instalment.
- if the billing authority and the ratepayer want the first instalment of the non-deferrable amount (i.e. the first reduced instalment) to be payable on 1 November (and not a later date in November), the billing authority should serve the new notice by or on 24 October (i.e. seven days before payment due)
- once the new bill has been served, the ratepayer pays the 1 November instalment under the new bill rather than under the existing one.

EXAMPLE 2***Cases where a slower turn around will not affect the ratepayer***

If the application was served on 11 August (and the next instalment is due on 1st September) the position is as follows:

- application served on 11 August so any instalment falling due on or before 1 September is payable under the existing bill and will be unaffected by the application for deferral
- next payment due under the existing bill on 1 September. The September instalment is therefore payable under the existing bill and the first instalment in which the ratepayer should see the benefit of deferral is the 1 October instalment
- the billing authority will need to ensure that the new bill is issued at least seven days before the first instalment of the non-deferrable amount is due to be paid. If that instalment is due on 1 October, then it gives the authority from 11 August until 23 September to carry out the calculations and issue the new bill.

3.3 Calculating the deferrable amount

One of the most important tasks for billing authorities in administering the deferral scheme will be calculating the amount that ratepayers can defer. This section considers the key actions that billing authorities must take in making these calculations, providing examples of calculations for ratepayers in different circumstances.

The calculations that billing authorities will need to carry out are contained in paragraphs 4 to 12 of the new Schedule 1B to the 1989 Regulations which is contained in Schedule 1 of the Deferred Payments Regulations. **References in brackets in the example boxes below are to the relevant paragraphs of new Schedule 1B.**

As mentioned previously, most ratepayers (those not affected by the end of transitional relief) will be able to defer 3 per cent of their total 2009-10 bill. Calculations should be simple to do for these ratepayers.

Example 3 below presents a standard calculation for a ratepayer whose property was not in transition in 2008-9, received no reliefs and saw no changes in their property this year.

EXAMPLE 3

Standard, not in transition in 2008-9, no reliefs this year (paragraph 6)

The ratepayer's 2009-10 bill is £1,000. They can defer 3% of this amount or £30.

They therefore only have to pay £970 in 2009-10.

£30 would be taken off their remaining 2009-10 instalment payments in equal amounts.

The deferred £30 would be repaid £15 in 2010-11 and £15 in 2011-12 alongside the instalments for those years.

For ratepayers that are receiving any mandatory or discretionary relief, this will have to be factored into the calculation of their deferred amount. Reliefs reduce a ratepayer's 2009-10 bill. In **Example 4** below the ratepayer receives 50 per cent Small Business Rate Relief, but again, the property was not in transition the previous year. They can defer 3 per cent of their total bill net of reliefs.

EXAMPLE 4**Not in transition, receiving 50 per cent relief in 2009-10**

(paragraph 6)

The ratepayer's 2009-10 bill before reliefs is £1,000.

They received 50% relief as a small business.

Their actual bill is therefore £500.

The ratepayer can defer 3% of the actual bill – i.e. £15.

So they would pay £485 in 2009-10. £15 would be taken off their remaining 2009-10 instalment payments.

The deferred £15 would be repaid £7.50 in 2010-11 and £7.50 in 2011-12 alongside the instalments for those years.

The examples above show calculations for ratepayers in properties that were not in transition the previous year. Ratepayers whose properties were in transition in 2008-09 must defer an additional amount on top of the 3 per cent of their total overall bill. As mentioned previously, billing authorities will need to check whether a ratepayer's property was in transition in 2008-09 to determine the deferrable amount they are qualified to receive.

Example 5 presents a standard case where the ratepayer's property was in transition in 2008-09 but where they receive no reliefs in 2009-10.

EXAMPLE 5**In transition in 2008-9, not receiving reliefs in 2009-10**

(paragraph 7)

Determining the 3% deferral

The ratepayer's final 2009-10 bill is £1,000. 3% of final bill = £30

Determining the transitional deferral

The amount of the transitional relief received on 31 March 2009 was £1. The number of days it is assumed for the purposes of the 2009/10 bill that the ratepayer will be in occupation in 2009-10 is 365.

(£1 x 365 = £365)

The ratepayer can defer 60% of this amount or $365 \times (60/100)$ which equals £219

Determining the total deferrable amount

The total deferrable amount for this ratepayer is £30 + £219 which equals £249.

This ratepayer would pay £751 in 2009-10. £249 would be taken off their remaining 2009-10 instalment payments in equal amounts.

The deferred £249 would be repaid £124.50 in 2010-11 and £124.50 in 2011-12 alongside the instalments for those years.

Example 6 is similar to the previous example in that the property was in transition in 2008-9 but the ratepayer receives 80 per cent charitable relief in 2009-10. The ratepayer is entitled to both the RPI and the transitional deferral.

As per the regulations, the amount they can defer because the property came out of transition must be reduced in proportion to any reliefs they receive in 2009-10. The method for doing this is outlined in paragraph 8 of Schedule 1 to the regulations. The deferral of 3 per cent of the total 2009-10 bill also must reflect the total bill net of reliefs.

EXAMPLE 6

Property in transition in 2008-9, ratepayer in receipt of charitable relief in 2009-10 *(paragraph 8)*

Determining the 3% deferral

The ratepayer's 2009-10 bill before reliefs is £1000

The ratepayer received 80% charitable relief reducing the actual bill to £200

The ratepayer can defer 3% of the actual bill = £6

Determining the transitional deferral

The amount of the transitional relief received in 2008-09 was £1 as of 31 March 2009.

The number of days it is assumed for the purposes of the 2009/10 bill that the ratepayer will be in occupation in 2009-10 is 365.

(£1 x 365 = £365)

If the ratepayer was not in receipt of reliefs in 2009/10 they would be able to defer 60% of this amount, i.e. 365 x (60/100) which equals £219

However, this must be reduced in proportion to the amount of charitable relief received or £200. This is done by first dividing the bill for 2009/10 after reliefs by the bill before reliefs (i.e. 200/1000) which equals 0.2. The £219 arrived at above is then multiplied by this number (i.e. £219 x 0.2) which gives a reduced deferrable amount of £43.80.

Determining the total deferrable amount

The total deferrable amount for this ratepayer is £6 + £43.80 which equals £49.80.

This ratepayer would pay £150.20 of their £200 total bill in 2009-10. £49.80 would be taken off their remaining instalments.

The deferred £49.80 would be repaid £24.90 in 2010-11 and £24.90 in 2011-12 alongside the instalments for those years

Ratepayers that start occupying a property during 2009-10 are also eligible for deferral. However, the amount that they are able to defer will need to be proportioned according to the number of days it is assumed they will occupy the property in 2009-10.

As shown in **Example 7**, the basic calculation is:

3 per cent of the net bill + 60 per cent of transitional relief received on 31 March 2009 x number of days in occupation in 2009-10.

EXAMPLE 7

In transition in 2008-9, occupies property from October 1st 2009-10, no reliefs in 2009-10 *(paragraph 7)*

Determining the 3% deferral

The ratepayer's 2009-10 bill for final 6 months of year is £500. 3% of final bill = £15

Determining the transitional deferral

The amount of the transitional relief received in 2008-9 was £1 as of 31 March 2009.

The number of days it is assumed the ratepayer will be in occupation in 2009-10 is 182

The ratepayer can defer 60% of £1 x 182 which equals £109.20.

Determining the total deferrable amount

The total deferrable amount for this ratepayer is £15 + 109.20 which equals £124.20.

This ratepayer would pay £375.80 in 2009-10. £124.20 would be taken off their remaining 2009-10 instalment payments.

The deferred £124.20 would be repaid £62.20 in 2010-11 and £62.20 in 2011-12 alongside the instalments for those years

The examples above as they relate to transitional relief deal with situations where the property which the ratepayer occupies in 2009-10 is the same property that received transitional relief in 2008-09. Since there will be situations where new properties have been formed through splits or mergers of "old" properties that received transitional relief in 2008-09 the Deferred Payments Regulations make provision to allow these new properties to defer a proportion of the transitional relief that those properties would have received had the transitional relief scheme extended into this financial year.

The following three examples look at such cases.¹ In the first of these, **Example 8**, a property in transition in 2008-09 splits into new properties in 2009-10. Even though these new properties do not receive transitional relief the property they were formed from was in transition. Therefore, the ratepayers that occupy these new properties, even if they are entirely new occupiers, can defer a portion of the transitional relief the original property received.

Therefore, where a new property was formed from a split or merger prior to the application for deferral, the billing authority will need to check whether the old property (or properties) out of which the new property was formed was in transition in 2008-09.

¹ For indicative purposes a multiplier of 0.5 has been used to calculate the bills for each property in these examples

Because the original property received transitional relief in 2008-09 all the new properties are entitled to both the 3 per cent and the transitional deferral. For each of the new properties the 3 per cent deferral is calculated as laid out in the previous examples (3 per cent of their final 2009-10 bill after any reliefs have been accounted for).

The example below shows the stages involved in calculating the deferrable amount for one instance of this scenario.

EXAMPLE 8

Three ratepayers apply for deferral on new properties that were formed out of a single property which split on 1st October 2009-10 and that was in transition in 2008-09. None of these ratepayers receive other reliefs in 2009-10 (paragraphs 7 and 9)

Determining the 3% deferral

It is assumed that the ratepayers will be in occupation of each of the new properties for 6 months. They can defer 3% of their actual bill for 2009-10.

*Property 1 – has an RV of £10,000
Actual bill for 2009-10 is £2,493.15
They can defer 3% of this = £74.79*

*Property 2 – has an RV of £20,000
Actual bill for 2009-10 is £4,986.30
They can defer 3% of this bill = £149.59*

*Property 3 – has an RV of £30,000
Actual bill for 2009-10 is £7,479.45
They can defer 3% of this bill = £224.38*

Determining the transitional deferral

Step One: Determining the transitional relief received by the original property. Usually this will be easily found by referring back to their last bill from 2008-09 and considering the difference between the chargeable amount if the property had not been in transition and the chargeable amount with transition applied as of the 31 March 2009.

Again we will assume that the daily amount of transitional relief is £1.

In this example, the old property had a rateable value of £60,000.

The new properties have rateable values of 1) £10,000, 2) £20,000 and 3) £30,000

The ratepayers in the new properties all came into occupation of the properties midway through the fiscal year so for rating purposes they will be there for 182 days.

EXAMPLE 8 *(continued)*

Step Two: Apportioning the transitional deferral to the new properties according to their rateable values and the amount of time they occupied the property during 2009-10.

To do the apportionment, the following calculations must be made for each property:

- Multiply the amount of daily transitional relief received by the old property (£1) by the rateable value of the new property*
- Divide that amount by the rateable value of the old property (£60,000) as of the day before which the new property came into existence*
- Multiply that total by the number of days it is assumed (for the purposes of billing) that the ratepayer will occupy the property during 2009-10 – so in this case (182)*
- And determine what 60% of that amount is.*

Property 1:

$$(1 \times \pounds 10,000) / \pounds 60,000 \times 182 \times 60\% = \pounds 18.20$$

Property 2:

$$1 \times \pounds 20,000 / \pounds 60,000 \times 182 \times 60 / 100 = \pounds 36.40$$

Property 3:

$$1 \times \pounds 30,000 / \pounds 60,000 \times 182 \times 60 / 100 = \pounds 54.60$$

Determining the total deferrable amounts

Now the 3% deferral has to be added to the transitional deferral for each of the new properties to determine the total deferrable amounts.

Property 1:

$$\pounds 74.79 \text{ for 3\% deferral} + \pounds 18.20 \text{ for the transitional deferral} = \pounds 92.99$$

Property 2:

$$\pounds 149.59 \text{ for 3\% deferral} + \pounds 36.40 \text{ for the transitional deferral} = \pounds 185.99$$

Property 3:

$$\pounds 224.38 \text{ for 3\% deferral} + \pounds 54.60 \text{ for the transitional deferral} = \pounds 278.98$$

If everything was the same in the example above but the third property received a 50 per cent Small Business Rate Relief you would have to change the following as shown in **Example 9**.

EXAMPLE 9

Ratepayer (property three described above) in a property that split in 2009-10 and receiving 50 per cent Small Business Rate relief (paragraphs 8 and 9)

Determining the 3% deferral

The ratepayer's 2009-10 bill before reliefs is £15,000.

They received 50% relief as a small business.

Their actual bill is therefore £7,500.

The ratepayer can defer 3% of the actual bill – £225.

Determining the transitional deferral

Property three was to be able to defer £54.6 against the transitional relief the original property received in 2008-09. This amount must be reduced in proportion to the reliefs the ratepayer is receiving in 2009-10. This is done by first dividing the actual bill (£7,500) by the bill before reliefs applied (£1500) which equals 0.5. The £54.60 is then multiplied by this number. $£54.60 \times 0.5 = £27.30$.

Determining the total deferrable amount

The 3% deferral of £225 + the £27.3 transitional deferral = £252.3

The deferred £252.30 would be repaid £126.15 in 2010-11 and £126.15 in 2011-12 alongside the instalments for those years

A new property in 2009-10 can also be created from the merger of properties that were in transition during 2008-09. It could also be the case, that one of the 2008-09 property was in transition and the other wasn't. **Example 10** shows how the deferred amount should be calculated in such an instance.

EXAMPLE 10

New property formed on 1 May 2009-10 from two old properties – one of which received transitional relief while the other did not (paragraphs 7 and 10)

Determining the 3% deferral

The ratepayer's 2009-10 bill is £4,500.

The ratepayer can defer 3% of the actual bill – £135.

Determining the transitional deferral

Step 1: Determine the transitional relief received by the original properties.

This will require you to look back at 2008-09 bills of the properties which merged to form the new property.

In this example one property received transitional relief of £1 per day the other was not in transition.

Step 2: Determine how much of this relief the new property is entitled to.

In order to do this you need to multiply the daily amount of transitional relief (£1) by the ratio of the new property's RV to the sum of the old properties RVs

In this example the RV of the new property is £9,000 and there are 2 old properties both with an RV of £5,000

The ratio of new RV to old RV = £9,000/£10,000 = £0.90

Multiplying £0.90 by the daily transitional amount tells you how much transitional relief the new property would be entitled to

£0.90 x £1 = £0.90 this is the daily amount of transitional relief the new property would be entitled to

Step 3: Calculate the transitional deferral

Multiply the daily amount of transitional relief the new property would have been entitled to by the number of days they will pay rates for in 2009-10 and then find 60% of this

Daily amount of transitional relief entitled to = £0.90

The ratepayer is assumed to be in occupation of the new property for 335 days

Transitional deferral = £0.90 x 335 x (60/100) = £180.90

Determining the total deferrable amount

The 3% deferral of £135 + the transitional deferral of £180.90 = £315.90

3.4 Reduced instalments in 2009-10

As mentioned above, **once the deferrable amount has been calculated the ratepayer's remaining 2009-10 instalments need to be reduced accordingly**. This is achieved by reducing the amount remaining to be paid in respect of 2009/10 by the deferrable amount and then working out the new instalments payable by the ratepayer in 2009/10. Under the regulations, the amount which the ratepayer must pay in 2009/10 is referred to as the non-deferrable amount.

As mentioned, when counting the number of instalments remaining, only those which are payable more than 21 days from the date the authority receives the application will be affected by the deferral. Therefore, where a ratepayer requests deferral and the next instalment is less than 21 days away, that instalment should remain the same but the rest should be reduced proportionately by the deferrable amount.

In most cases the number of instalments, the date etc will remain the same as before deferral and the billing authority will calculate the amount of each remaining instalment in the same way that they currently calculate instalments under the existing instalment scheme. However, where those calculations would result in instalments of less than £50 the billing authority may require payment in a single instalment (where the total non-deferrable amount is less than £100) or, where the non-deferrable amount is £100 or greater, they may require instalments of a minimum of £50.

In some circumstances a ratepayer may be behind with their instalments when deferral is requested. This will not affect how much they can defer. The deferred amount should be deducted from their remaining monthly instalments (and not from those in which they are in arrears).

Ratepayers with a remaining balance cannot defer more than what remains outstanding from their 2009-10 liability for this same reason. Where a ratepayer's deferrable amount is more than their outstanding balance they can defer that outstanding balance. For example, if a ratepayer with a £100 2009-10 rates bill could defer £3 for the year but has only one instalment payment left this year of £2, they can defer the £2 into future years.

3.5 Re-billing

After the deferrable amount is calculated, billing authorities will need to send out new bills to ratepayers. As per the regulations, these **new bills will need to set out the:**

- new schedule of payments for 2009-10; and
- total amount deferred into 2010/11 and the total amount deferred into 2011/12.

The regulations do not prescribe a particular format.

In-year changes to properties or ratepayer circumstances

There are a number of circumstances where in-year changes must be accommodated within the rating system and therefore addressed within the deferral scheme. Paragraph 18 of new schedule 1B makes provision about recalculating the deferrable amount where an adjustment needs to be made during 2009/10. Adjustments will need to be made as a result of, for instance, changes in rateable value (including backdated RV changes which affect the amount of transitional relief that a property received in 2008/09), changes in eligibility for reliefs in 2009-10 and changes in occupier. The following changes and the means by which they must be treated under the regulations are as follows.

Where **the deferring ratepayer ceases to be liable to pay rates in respect of the property to which the deferral applies the full outstanding balance for 2009/10 will become due in the normal way**. Deferral is granted to the ratepayer who applies for it and cannot be transferred to new ratepayers who come into a property. New ratepayers would have to apply themselves for deferral this year.

The rateable value of the property may also change in-year (as the result of a successful appeal for example). In such cases, the occupier is issued with an adjustment notice, adapting their bill to their new value of the property. For the deferral scheme, the regulations set out that the **deferred amount will need to be recalculated as part of the adjusted bill**.

Where a property becomes partially occupied in-year the rateable occupier can ask the billing authority to recommend that the VOA apportion the rateable value of the property so that the empty part is liable for empty property rates and the occupied part is liable for occupied business rates. Their bill would be recalculated accordingly. In these circumstances, the regulations set out that the deferred amount should also be recalculated and reflected in the revised bill.

New properties may also enter the rating list in-year (e.g. because of a split or merger of existing property, or it is a new or refurbished building) as mentioned in the preceding section on calculations, the ratepayer can apply for deferral. If that property were part of a property that was in transition in 2008-9 they could defer against both the 3 per cent of their total rates bill and the portion of transition they qualify for.

Billing authorities will need to send out the flyer and application form we enclose with this guidance with all bills issued to new ratepayers or for new properties this year.

3.6 Repayment and future year bills

As mentioned previously, deferring ratepayers will have to pay back the deferred amount over the next two fiscal years. Future year bills will therefore need to set out the schedule of payments for these deferred amounts.

Deferred amounts to be paid back over the next two fiscal years (50 per cent in 2010-11 and 50 per cent in 2011-12) must be shown separately in future year bills as they stem from an outstanding and distinct liability. Provision is made in the regulations to allow billing authorities to show both the future year liability and the outstanding 2009-10 liability on a single bill.

Future year bills in 2010-11 and 2011-12 must show the deferred amount to be paid back in that year and the schedule of payment for that deferred amount over that year. An extra sheet of paper can be used if the information cannot be fitted on the face of the bill. Where such a bill is issued, the regulations provide that payments of both years' instalments shall be made in the same months and on the same dates. This is in order to allow ratepayers to make one monthly payment covering both the 2009-10 deferred payment instalment and the current 2010/11 or 2011/12 instalment.

3.7 Enforcement

The key principle of the business rates recovery process that makes the entire outstanding liability come due when a ratepayer loses their right to pay by instalments will operate for deferred 2009-10 payments as well. If, after a ratepayer is granted deferral, they go on to default on future payments in 2009-10 or on the deferred amount in either 2010-11 or 2011-12, billing authorities can demand that the whole outstanding liability be paid, including any amounts deferred to future years.

The deferred amount for 2009-10 and the actual liabilities for 2010-11 and 2011-12 (i.e. the actual bills for those years) remain distinct even though they may be on the face of the same demand notice. Therefore, if a ratepayer does default on the deferred amount in 2010-11 or 2011-12 it does not mean that the ratepayer has automatically defaulted on the liability for either of those years as well.

However, it may be the case that a ratepayer does not maintain his 2010-11 liability instalments and also does not maintain his deferred amount instalments. In such cases, billing authorities will need to reference the liabilities separately in any notices but can send out single reminder notices, further notice and liabilities order for all outstanding liabilities.

3.8 Payment allocations and arrears in future years

The regulations also determine how payments and arrears from multiple liabilities should be treated in the next two fiscal years. **As mentioned previously, 2009-10 deferred payments are part of a distinct liability and must be shown separately on 2010-11 and 2011-12 bills, even if ratepayers can make one payment covering both liabilities.** For example, the 2010-11 bill could show £100 monthly instalments for the 2010-11 liability and £10 monthly instalments for the 2009-10 deferred payments to be paid in one £110 payment at the same time each month.

Provision therefore has been made for instances where payments fall short of that cumulative amount. **As per current practice, where a ratepayer were to make a payment equal to one of the required liabilities due, that money would be allocated to that liability.** For example, if in the case above, the ratepayer were to make a £100 payment, it should be allocated to the 2010-11 liability and they would be in arrears on their 2009-10 liability.

Where however, payments made do not equal either payment due, so if the ratepayer above had only paid £79, the regulations for the deferral scheme establish a hierarchy of payment. In such cases, the £79 should **first be allocated against the old outstanding liability** – the 2009-10 liability – which would be covered in full for that month. Then, the remaining £69 would be allocated to the in-year liability – which would be in arrears for that month by £31.

As mentioned above, for the purposes of taking recovery action, failure to pay against one liability does not permit the pursuit of payment against liabilities that are not in arrears. So, in the case above, billing authorities can take action to recover the outstanding £31 owed against the 2010-11 liability. The 2009-10 liability would however be current and would not be subject to enforcement. As also mentioned, if a ratepayer were however to default against both liabilities, both the 2009-10 and the future (or in-year) liability, then billing authorities can seek recovery action against both debts.

Section 4

Toward implementation

The regulations will come into force on the 31 July 2009. From that day, ratepayers can apply with billing authorities for the scheme. Provided with this guidance is a letter and flyer inviting ratepayers to apply for the scheme that should be sent from billing authorities to all ratepayers in England when the scheme is launched. The application form that should go out with the letter is attached as well.

In developing the regulations, the local government sector has been closely consulted. Regular meetings with the Local Government Association (LGA), the Chartered Institute of Public Financial Accounting (CIPFA) and the Institute of Rating and Revenue Valuation (IRRV) have taken place. Professional bodies, such as the Royal Institute of Chartered Surveyors (RICS) and business organisations, such as the Confederation of British Industry (CBI), British Retail Consortium (BRC), British Chambers of Commerce (BCC), Federation of Small Businesses (FSB) and British Council of Shopping Centres (BCSC) have also been engaged.

IRRV also organised regular meetings with the providers of billing software to discuss the scheme's implications for software systems. Software suppliers are now working to upgrade software to aid billing authorities in the administration of the scheme.

Billing authorities are encouraged to respond to applications as soon as practicable, sending out new bills and payment schedules before a ratepayer's next instalment payment where possible. The regulations set out a 21 day period for billing authorities to calculate deferred amounts, send out new bills and enable new payments to be made before a next instalment is due.

It is understood, that in some cases, particularly in the early weeks after the scheme's implementation, the ability of billing authorities to process applications simply may in some cases be influenced by the transition to upgraded software (although all the major software suppliers have promised to provide authorities with guidance on how to process applications on existing software). In such cases we would encourage billing authorities to use their expertise and discretion to ensure that ratepayers are not disadvantaged and receive the help they need.

Where, for any reason, there may be a delay in re-billing, billing authorities should communicate with ratepayers as to when they will send out new bills and payment schedules reflecting the deferred amounts. Ratepayers should be able to defer the full amount they are entitled to for the year in such instances.

4.1 Covering the costs of new burdens

The Government has committed to fully fund the costs of the scheme to local government as a whole. A grant allocation of £5.8m will be made to all 326 billing authorities across England. This funding will cover the costs of mailings to ratepayers informing them of the scheme, re-billing and software upgrades. These funds are planned to be distributed in the Summer. We will write to billing authorities with details of individual allocations.

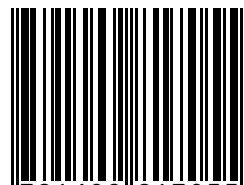
4.2 Monitoring and reporting

The Government is interested in take-up of the scheme and billing authorities should therefore record how many ratepayers are granted deferral in their areas and the total value of the deferrals. There is considerable interest in the scheme from stakeholders and public bodies, including Parliament. Being able to provide information on take-up is important in enabling transparency and accountability for the programme.

It is also expected that billing authorities may need to submit NNDR2 forms depending on scheme take-up in their areas. The regulations relax the threshold limitations on NNDR2 submissions to enable authorities to more easily make such submissions. All other requirements and processes continue as usual.

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