EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (DEFERRED PAYMENTS) (ENGLAND) REGULATIONS 2009

2009 No. 1597

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations amend the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (S.I. 1989/1058) ("the Local Lists Regulations") and the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 (S.I. 1989/2260) ("the Central Lists Regulations") which, amongst other things, provide for annual rates liability to be discharged in instalments. Under the existing instalment scheme however, the instalments are payable in the financial year to which the demand for payment relates. These Regulations provide that where a ratepayer is subject to non-domestic rates in respect of the local government financial year 2009-10 they can defer payment of a specified proportion of that liability to the financial years beginning on 1st April 2010 and 2011.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

4.1 Under section 41 of the Local Government Finance Act 1988 ("the 1988 Act"), most non-domestic properties appear on a rating list compiled for the area in which they are situated. Under section 43, the occupiers of such properties are liable for non-domestic rates for each financial year (which, for the purposes of local government finance, runs from 1 April to 31 March). In certain cases where the property is unoccupied, the owner is liable for rates under section 45. Certain properties, which are not suitable to be shown on a local rating list, are shown on the central rating list and rates are paid directly to the Secretary of State.

4.2 The Local Lists Regulations and the Central Lists Regulations govern the practicalities of billing for rates which in the case of the former is undertaken by the billing authority (the district or unitary authority for the area the property is situated in) and in the case of the latter, the Secretary of State. The Local Lists and Central Lists Regulations require the billing authority or the Secretary of State (as the case may be) to issue to the ratepayer for each financial year a demand notice, setting out the ratepayer's liability for rates. The content of demand notices is governed by the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 (S.I. 2003/2613) ("the Demand Notices Regulations"). Broadly speaking, demand notices are to be served on or around 1 April in each year in respect of which it appears to the authority that the conditions for being liable to rates set out in section 43 or 45 of the 1988 Act are met.

4.3 Where a demand notice is issued, regulation 7 of the Local Lists Regulations and regulation 7 of the Central Lists Regulations provide for liability under the notice to be discharged either in instalments (calculated in accordance with the relevant Schedule) or in accordance with an agreement reached between the billing authority or Secretary of State and the ratepayer. Where Schedule 1 applies the instalments are payable in the financial year to which the demand for payment relates, the number of instalments being ten, or if less, the number of whole months remaining in the year (subsequent to the issue of the demand notice), less one.

4.4 All ratepayers liable to rates in the financial year 2009-10 are facing increases in their rates bills due to a high September 2008 Retail Prices Index ("RPI") Rate of 5% (the annual increase in rates being fixed to the RPI rate for the September preceding the start of the financial year in accordance with Schedule 7 to the Act). Some ratepayers are also experiencing an increase in their rates liability due to the ending of the transitional relief scheme under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004 (S.I. 2004/3387) on 31 March 2009. The present Regulations insert a new Schedule 1B into the Local Lists Regulations and a new Schedule 1A into the Central Lists Regulations to provide that where a ratepayer is subject to non-domestic rates in respect of the financial year 2009-10 they can defer payment of a specified proportion of that liability to the financial years beginning on 1 April 2010 and 2011. The detailed operation of the new schedules mirrors – as far as possible - the operation of the existing instalment schemes under Schedule 1 to the Local Lists Regulations and the Schedule to the Central Lists Regulations.

4.5 The Regulations also make consequential modifications and amendments to the Demand Notices Regulations and a modification to the Non-Domestic Rating Contributions (England) Regulations 1992 (S.I. 1992/3082).

5. Territorial Extent and Application

5.1 This instrument applies to England.

5.2 Similar schemes are being implemented by the Scottish Parliament and the Welsh Assembly Government.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 Non-Domestic rates are adjusted each year to take account of inflation as measured by the Retail Price Index ("RPI"). This consistent approach has been taken since the introduction of national business rates in 1990. The 1988 Act requires that rates are adjusted every April in line with the RPI rate for the previous September.

7.2 In September 2008 the RPI rate was 5%, but had fallen to -0.4% by March 2009 (and is widely forecast to be negative in September 2009). Inflation has fallen dramatically during the economic downturn. Because the increase in the 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.

7.4 Significant increases in the 2009-10 business rate bills will particularly affect ratepayers coming out of transitional relief. Business rates property revaluations take place every five years. The last revaluation was conducted on 1 April 2005 and the next will have effect from 1 April 2010. Transitional arrangements were put in place after the 2005 revaluation to phase in large changes in rate bills by putting in place annual caps on revaluation related increases.

7.3 The transition period from the 2005 revaluation lasted for four years, ending with the 2008-09 fiscal year, as opposed to previous transitional schemes which lasted for the full five years of the life of the rating lists. The rationale for the four year transitional period was to ensure that ratepayers paid their full bill during the life of the 2005 rating list. However, this has resulted in significantly higher 2009-10 rates bills for as many as 100,000 recipients of transitional relief. For example, a property in receipt of transitional relief of £50,000 in 2008-09 would see their bill increase by this amount in 2009-10 in addition to the 5% multiplier increase.

7.3 In recognition of the increases facing ratepayers and the current economic climate generally, the Government decided to allow non-domestic ratepayers to defer a portion of certain increases in their 2009-10 bills.

7.4 The Government announced on 31 March that, alongside other measures to help businesses, it would make regulations to allow businesses in England to defer 60% of the annual increase in their 2009-10 rates bills. The deferred amount would be repaid equally in 2010-11 and 2011-12 to allow ratepayers to spread the 2009-10 increase across three years.

7.5 This original announcement was re-confirmed and clarified further in the Budget on 22 April 2009. The Budget stated that the deferral scheme would be designed to provide relief to ratepayers facing the 5% inflation-adjustment in their 2009-10 bills and for those affected by the end of the 2005 transitional relief scheme.

- ***Consolidation***

7.7 As all the substantive provisions being added to the Local Lists Regulations and the Central Lists Regulations are contained in new schedules, the Government does not consider that it is necessary to consolidate either of these sets of Regulations.

8. Consultation outcome

8.1 There has not been a formal consultation on the amendments made by the Regulations which were announced as part of the Pre-Budget Report 2009. In order for the scheme to achieve its purpose of easing cash-flow for businesses in 2009-10 it needs to come into force as quickly as possible so that ratepayers can apply for deferral and have their remaining 2009-10 instalments reduced as a result. However, the Government recognises the importance of the scheme being simple for billing authorities to administer and for business to take up. Communities and Local Government officials have therefore had extensive meetings with local government representatives, their software suppliers and business community stakeholders concerning the detail and implementation of these Regulations.

8.2 The Government has received representations requesting that the deferral scheme is mandatory for all ratepayers subject to a ratepayer requesting to be excluded from the scheme – an opt-out versus opt-in approach. The Government believes that this would not be fair to ratepayers who may not want to defer payments in managing their tax liabilities. If the scheme were mandatory, this would require such ratepayers to take administrative action for their businesses to come out of the scheme. For businesses with large numbers of properties this could be a significant administrative burden. The scheme will instead be discretionary for ratepayers, allowing them to choose whether deferral is suitable for their particular circumstances.

9. Guidance

9.1 The Department for Communities and Local Government will be issuing guidance to local authorities which will cover all aspects of administering the scheme.

10. Impact

10.1 The impact of these amendments to the Local Lists and Central Lists Regulations will be that, where the conditions for deferral are satisfied, payment of part of the ratepayers 2009-10 rates liability may be deferred to the financial years 2010-11 and 2011-12. This will support businesses by enabling them to mitigate the impact of the business rates increases and better manage cash flow in discharging tax liabilities.

10.2 The Government has stated that, as this is a new burden, the net additional costs of the scheme to local government as a whole will be fully funded. The estimated costs to administer the scheme for local government as a whole are £5.8m. This includes the costs associated with sending two mailings to inform ratepayers about the scheme, changes needed to billing software and actual re-billing for ratepayers who have taken-up the scheme.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 This policy will not place a burden on small businesses. It is aimed at helping businesses of all sizes facing increased rates bills, due to the RPI inflation-adjustment and the end of transitional relief, during the economic downturn. By allowing payments due to those increases to be spread over three years the deferral scheme supports businesses, enabling them to better manage cash flow and thereby remain in operation and provide employment. Supporting businesses should have significant social and economic benefit for local communities and individuals.

12. Monitoring & review

12.1 The policy will be reviewed after its end date on 31 March 2010. However, in the interim period, the Department is considering methods for collecting monitoring the effectiveness of the policy within the data burdens guidelines.

13. Contact

David McDonald at the Department for Communities and Local government Tel: 020 7944 5211 or email: david.mcdonald@communities.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Business Rates Deferral Scheme	
Stage: Final Proposal Stage	**Version:** 0.1	**Date:** 29 June 2009
Related Publications:		

Available to view or download at:

http://www.

Contact for enquiries: Mark Fine **Telephone:** 020 7944 4061

What is the problem under consideration? Why is government intervention necessary?

The economic downturn is having a significant affect on businesses throughout England. Under existing legislation, business rates are adjusted every April in line with the Retail Price Index for the previous September. September 2008 saw a spike in inflation of 5%. The deferral scheme is designed to smooth the effects of the spike in inflation, which would have further affected business cash flow this year. The deferral scheme also assists businesses facing increase in business rates following the conclusion of transitional arrangements following the 2005 revaluation.

What are the policy objectives and the intended effects?

The aims of this policy are to:

1) Help businesses mitigate the impact of business rate increases caused by the implementation of national policy through the retail price indexed inflation multiplier and the end of transitional relief; and
2) To provide businesses with greater options for managing cash flow during the economic downturn.

What policy options have been considered? Please justify any preferred option.

The policy options considered were:

1) Do Nothing; and
2) Implement the deferral of business rates payments scheme for 09/10 payments.

The preferred option was to implement the deferral of business rates payments scheme for 09/10

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The policy will be reviewed after its end date on 31 March 2010. However, in the interim period, the Department is considering methods for collecting information on monitoring the effectiveness of the policy within the data burdens guidelines.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Rosie Winterton ....Date: 30th June 2009

Summary: Analysis & Evidence

Policy Option: Business Rates Deferral Scheme	Description: This scheme will allow business rate payers to defer a portion of the increases in their 2009-10 rates bills over the following two fiscal years.

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	Although businesses will have to repay the rates they defer from 2009-10 the value of the discounted repayments will be less than the value of the actual deferred amount. Some of the deferred amount will also not be repaid due to bad debt these costs to the government are estimated to be between £20m and **£80m**. The cost to local authorities of implementing the scheme are estimated at £6m
£6m		
Average Annual Cost (excluding one-off)		
		Total Cost (PV) **£26m - 86m**

Other **key non-monetised costs** by 'main affected groups' The costs of the deferral scheme will be recouped over the following two fiscal years with 50% of the payments due in 2010-11 and the remaining 50% due in 2011-12

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yrs**	Business benefit because the discounted value of the repayments they make will be less than the value of the amount they deferred. Some businesses may also benefit from not having to repay the entire amount which they deferred (bad debt). The value of these benefits to business is valued between £20m and **£80m.**
	0	
Average Annual Benefit (excluding one-off)		
£		**Total Benefit** (PV) **£20m - 80m**

Other **key non-monetised benefits** by 'main affected groups' This scheme will allow businesses to better manage their cash flow, which should be of benefit to businesses as the economy recovers. Businesses will also be able to plan ahead knowing the payments they will carry into the next two fiscal years.

Key Assumptions/Sensitivities/Risks The analysis assumes that:

i) 90% of all ratepayers take up the option to defer 3% their business rates bill in 2009-10 and 60% of the amount of transition relief their properties received in 2008-09; and

ii) there will be 5% of bad debt in 2010-11 and 2011-12

Price Base Year 2009	Time Period Years 3	**Net Benefit Range** (NPV) **£ 0**	**NET BENEFIT** (NPV Best estimate) **£ - 6m**

What is the geographic coverage of the policy/option?	England
On what date will the policy be implemented?	End July 2009
Which organisation(s) will enforce the policy?	Local authorities
What is the total annual cost of enforcement for these organisations?	
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	

What is the value of changes in greenhouse gas emissions?				
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No

Evidence Base (for summary sheets)

Background

1. Under existing legislation, business rates are adjusted every April in line with the Retail Price Index (RPI) from September. This is a consistent approach since the introduction of national business rates in 1990 as set out in the Local Government Finance Act 1988. In September 2008, RPI was 5%. The majority of independent economists expected RPI inflation, which stood at -0.4% in March, to be negative at the end of 2009.

2. Some businesses are also being affected by the end of the 2005 transitional relief scheme. Business rate property revaluations take place every five years. The last revaluation was conducted on 1 April 2005 and the next will take place starting on the 1 April 2010. Transitional arrangements were put in place after the 2005 revaluation to phase in large changes in rate bills by putting in place annual caps on revaluation related increases.

3. These transitional arrangements ran for four years, ending with the 2008-9 fiscal year, as opposed to previous transitional periods which lasted five years. The rationale for the four year transitional period was to ensure that ratepayers paid their full bill during the life of the 2005 rating list. However, this resulted in significantly higher rates bills for as many as 100,000 recipients of transitional relief. For example, a property in receipt of transitional relief of £50,000 in 2008-09 would see its bill increase by this amount in 2009-10 in addition to the 5% multiplier increase

4. These increases in rates bills come at a time when businesses face significant economic challenges. Statistics from the Office for National Statistics show that Gross Domestic Product (GDP) contracted by 1.9 per cent in the first quarter of 2009 and is 4.1 per cent lower than the first quarter of 2008 with almost all sectors in the economy showing reductions in output and production.

5. In recognition of current economic conditions and alongside other measures to help businesses, the Government announced on 31 March that it would issue regulations to enable businesses in England to defer up to 60% of the increases in their rates bills resulting from the annual RPI increase and the end of the 2005 transitional relief scheme.

6. Further confirmation of the policy was provided in the 2009 Budget statement on 22 April. As per that Statement, the Government will enable business to spread the payment of the April 2009 inflation up-rating to business over three years. 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 through 2011/12 as well. Ratepayers will be allowed to defer 60% of increases associated with the inflation up-rating and transitional relief.

Consideration of options

7. The alternative to the deferral scheme was to allow ratepayers to pay increases in their 2009-10 rates bills as expected. This would have meant that all ratepayers would pay bills based on the 5% inflation-adjustment even though inflation was considered to have decreased substantially since the adjustment was set in September to -0.4% by March 2009. Ratepayers coming out of transitional relief would in some cases have also been liable for significant increases in their bills on top of the inflation-adjusted increase.

8. In deciding to enable businesses to spread payment of this year's inflation-adjustment to business rates over 3 years, the Government recognised that many businesses needed help to ease cash flow.

9. The deferral scheme was seen as an effective option to mitigate the above-normal rates bill increases. It forms part of a wider package of measures to help businesses through the downturn, including: HM Revenue and Customs' time to pay arrangements additional lending for small and medium-sized businesses; prompt payment from Government to businesses; and health checks for businesses to help them through the downturn.

Policy approach

10. The Government designed the policy to be:

    a. Coherent and fair in its treatment of ratepayers facing significant increases in the 2009-10 rates bills due to the RPI adjustment and the end of transitional relief;
    b. Simple for billing authorities and their software suppliers to implement in a timely manner; and
    c. Transparent for businesses and easy for them to take-up.

11. The scheme will apply to increases generated by the annual RPI inflation-adjustment and the end of the 2005 revaluation transition period. Both of these increases are rooted in national policies being implemented this year.

Eligibility and Calculation

12. The deferral scheme will be available for all 2009-10 ratepayers, including any new ratepayers entering rateable properties in-year. All 2009-10 ratepayers face the 5% inflation-adjustment, so it is considered fair that all ratepayers this year have the option of deferral against it.

13. There are two instances in which a 2009-10 ratepayer will not be eligible for the scheme:

    - When they are in default and have lost their right to pay by installments under the existing installment scheme. This occurs when they have received notice from their local billing authority that their entire 2009-10 rates bills is due; and

    - After they have already paid off their entire 2009-10 liabilities – as the regulations cannot be made to apply retrospectively and therefore refunds cannot be given.

14. To ensure ease of implementation for billing authorities and their software suppliers, all ratepayers seeking deferral will be allowed to defer 3% of their total 2009-10 bill (net of any reliefs they receive this year) which is equivalent to 60% of the 5% inflation adjustment.

15. The use of this simple calculation methodology was determined after considering two alternative options for calculating the deferred amount against the 5% RPI inflation-adjustment. These were:

    - Method A) 60% of the difference between the actual 2009-10 bill and a notional 2008-09 bill. A notional bill will be calculated for 2008-09 by applying the 2008-09 multiplier to the 2009-10 rateable value and assuming the same reliefs apply. The deferrable amount would be 60% of the difference between 2009-10 bills and notional 2008-09 bills.

    - Method B) 3/105th of the actual 2009-10 bill (net of reliefs). Businesses are entitled to defer 3/105ths of their final 2009-10 bill.

16. Ratepayers, billing authorities and their software suppliers made clear the need to ensure that calculations could be done simply and transparently. This was considered particularly important given the need to implement the deferral scheme as soon as possible, building it into existing programmes and practices.

17. Method A was considered too difficult to quickly build into existing software programmes used by billing authorities and ratepayers to calculate payments. Method B, while easily expressed as a percentage, was also seen as lacking transparency. Therefore, as noted above, to ease implementation, the deferred amount that businesses will be allowed will be 3% of their final 2009-10 bill.

18. For those ratepayers coming off transitional relief in 2008-09 they will be allowed to defer an additional amount on top of the 3% of their overall bill (net of other reliefs). This additional amount will be 60% of the amount of transitional relief the property received in 2008-09 (reduced in proportion to other reliefs they are benefiting from this year). So for instance if a deferring ratepayer was in a property that received £1,000 transitional relief in 2008-09 they would ordinarily be able to defer 60% of that amount (£600) from their 2009-10 bill. However, if their 2009-10 bills had been reduced by 50% small business rate relief, the additional amount they could defer would also need to be reduced by 50%, to £300.

19. Ratepayers otherwise can apply for deferral until the 31 March 2010, when the regulations expire, enabling late or new occupiers to potentially benefit from the scheme for their period of occupation. Ratepayers will however be encouraged to apply for deferral as soon as possible after the regulations come into force. Billing authorities will be expected to write out to all ratepayers inviting them to apply for deferral as soon as the regulations come into force.

Application Process

20. As described above, ratepayers seeking deferral will have to apply to their local billing authorities to come into the scheme. It had been suggested that the deferral scheme be made mandatory for all ratepayers subject to a ratepayer requesting to be excluded from the scheme – an opt-out versus opt-in approach. It is not believed that this would be fair to ratepayers who may not want to defer payments in managing their tax liabilities.

21. If the scheme were mandatory, this would require such ratepayers to take administrative action for their businesses to come out of the scheme. For businesses with large numbers of hereditaments this could be a significant administrative burden for no benefit. Such a provision could also require costly and nugatory re-billing by billing authorities; when they send out new deferred bills and again after ratepayers have decided against deferral and want to revert back to their normal payments.

22. This option was deemed too administratively burdensome for these reasons. The scheme will instead be discretionary for ratepayers, allowing them to choose whether deferral of payments as allowed is right for their enterprise.

23. Immediately after the regulations come into force at the end of July, billing authorities will be expected to send out a letter (which will be provided for them, alongside a simple application form, by Communities and Local Government) inviting all ratepayers to apply for the deferral scheme. Ratepayers will be asked to return their application to their local billing authority as soon as possible so they can benefit in their next instalment payment.

24. Upon receipt of a ratepayer's application, the billing authority should try to send out a new bill (known as a demand notice) as soon as possible. Billing authorities will be encouraged to set up the new schedule of payments in time for the next possible instalment payment if

practicable. This new bill will set out the overall deferred amount and a new schedule of payments for 2009-10.

25. As mentioned previously, applications will be allowed until 31 March so that late or new ratepayers could benefit from the scheme. In practical terms however, ratepayers will need to apply at least a month in advance of their final instalment (in January) to ensure that billing authorities can process applications and recalculate bills to allow changes in payments.

Repayment and future year bills

26. In future years, ratepayers will be expected to pay back the deferred amounts, 50% in 2010-11 and 50% in 2011-12. Billing authorities will need to show the deferred payments separately from the 2009-10 liability on the same bill as payments due against future year liabilities. However, deferred payments against the 2009-10 liability should be made alongside the ratepayer's usual instalments in future years where practicable and within existing regulations.

<u>Estimates and revenue impacts</u>

27. Original estimates were made for the purposes of inclusion in the Government's Financial Statement and Budget Report (published in table A1 of the Budget 2009). The Budget projected the overall costs of the scheme to be **£700m** for the UK overall (Scotland and Wales are implementing their own similar schemes).

28. New information on property values and further policy development of the scheme has enabled us to refine our estimates since the Budget figures were published. For instance, since the original estimates were made, the VOA have revised the rateable value of the local list of properties subject to business rates and CLG have published an updated estimate of the level of relief provided ratepayers for various purposes during 2009-10. [1]

Methodology and key assumptions

29. To come to our revised estimates for England, the increase in gross revenue between 2008-09 and 2009-10 was multiplied by 60% to estimate that **£670m** was the maximum amount that could be deferred in relation to the RPI inflation-adjustment.

30. The amount that can be deferred against transitional relief was considered next. The NNDR1 return estimates that the value of the amount of transitional relief that will be granted will be £100m. [2] To make the estimates, it was assumed that ratepayers will be allowed to defer approximately 60% of the amount of transitional relief granted in 2008-09, so a further **£60m** was also allowed for.

31. To arrive at reasonable estimates, assumptions were made around likely take-up by ratepayers and the levels of bad debt, the sensitivities around which we discuss further in the next section. Based on the economic difficulties facing businesses, it was assumed that up to 90% of businesses would choose to defer. In total, the maximum amount which can be deferred in 2009-10 is estimated at **£650m.**

[1] http://www.communities.gov.uk/localgovernment/localregional/localgovernmentfinance/statistics/nondomesticrates/forecast/

[2] The NNDR1 return collects information from each local authority on the amount of revenue it will collect from businesses in its area. The return also collect details about the amounts of relief's local authorities will be granting.

32. It is expected that the majority of this initial cost will be recovered over the course of the subsequent two years. A small portion of this deferred amount will however be lost as a consequence of bad debt caused by businesses becoming insolvent.

33. In our estimates it is assumed that 5% of the deferred amount due to be paid back in 2010-11 and 2011-12 will be lost to bad debt. This estimate was based on experience with other schemes.

34. As per the scheme, the deferred amount will be repaid in equal instalments over the subsequent two years. Using the standard discount rate of 3.5%, the net present value of those repayments shows that the cost to the Exchequer for the scheme will be **£80m**. This is a consequence of the impact of devaluation on the value of the money repaid by businesses in 2010-11 and 2011-12. This £80million represents a transfer of money from central government to businesses.

35. In summary, the updated costs for the deferral scheme including the cost for transitional relief, assuming a take up rate of 90% would be **£650m** in 2009-10. Using the standard discount rate of 3.5% the net present value of those repayments have been recalculated showing that the cost to the Exchequer for the scheme will be **£80m**.

36. The updated estimates are shown in Table 1 below.

Table 1: Estimated cost of deferral scheme - England only

	2008/09	2009/10	2010/11	2011/12
Rateable Value local (£m)	46,960	46,770	46,840	46,740
Central list (£m)	2,520	2,590	2,590	2,610
Multiplier	0.458	0.481	0.468	0.473
Gross pool (RV x multiplier) (£m)	22,660	23,740	23,120	23,360
Reliefs deducted from gross yield (£m)	1,930	1,530	1,450	1,470
Net Collectable Amount (£m)	20,730	22,210	21,670	21,900
Maximum amount that could be deferred in 2009-10 against the annual RPI increase (£m)		670		
Maximum amount that could be deferred due to the end of the 2005 transitional period (£m)		60		
Estimated take-up rate (%)		90%		
Estimated actual cost (£m)		650		
Amount deferred from 2009-10 (£m)		-	330	310
In year bad debt (5%) (£m)		-	20	20
Net Rate Yield (£m)		21,550	21,980	22,190
Net Cost (£m)		-650	310	290
Discount factor		1.00	0.97	0.93
Net Present Value (£m)		**-650**	**-350**	**-80**

All figures rounded to the nearest £10million

Key assumptions, sensitivities & risks

37. There are two key assumptions and sensitivities that could affect the estimated costs and benefits of the deferral scheme. They are:

- **Ratepayer take-up:** The figures above assumes that up to 90% of all eligible businesses will choose to defer the increase in their business rates because it is believed the scheme offers significant benefits (as an interest free loan) to businesses. Although it is important that there a significant number of businesses participating in the scheme, the distribution of properties across sectors and size show that the costs of the scheme are more sensitive to the take up rates within certain sectors and size of hereditament than the actual number of hereditaments likely to take part in scheme.

- **Level of Bad Debt:** It had been assumed that 5% of the amount deferred in 2010-11 and 2011-12 will have to be written off as bad debt in each of these two years. However, given the current economic climate, there is some uncertainty about this estimate which will have implications for the overall cost of the scheme. Cost neutrality would require the entire deferrable amount to be repaid in the subsequent financial years.

38. The analysis below considers the sensitivities around these assumptions.

Ratepayer take-up

39. Close engagement with business groups, local billing authorities and professional bodies has enabled us to more ably consider the benefits of the scheme for certain businesses and sectors. Informal dialogue suggests interest in the scheme will be significant but that not universal. The benefits of the scheme are acknowledged as, in effect, providing businesses with an interest free loan that allows them to put off payment of current year liabilities into the future under no penalty.

40. The proportion of businesses choosing to defer payment of business rates will vary across the different sectors of the economy and by size of business. Each ratepayer, depending on their own business model and current situation will determine whether the deferral scheme as offered makes the best sense for their business over the next three years.

41. Table 3 below shows the proportion of the national rateable value in different sectors of the economy and the distribution across the rateable value range. The sectors that account for the largest share of rateable value are the retail and offices sector, together these two sectors account for 50% of overall rateable value. Similarly, hereditaments with a rateable value of £25,000 or more account for 79% of overall rateable value. If take up was high in these sectors than the overall amounts that can be deferred will be greater than if take up were low in these sector.

Table 3a: Distribution of rateable value across economic sectors

	Number of properties (000s)	Rateable Value £ m	Proportion of total rateable value
Retail - Shops, garages and warehouses	500	12,700	27%
Offices	320	10,970	23%
Industrial	340	9,460	20%
Tourist and other commercial	260	4,010	9%
Restaurants, pubs and bars	90	2,350	5%
Education, training and cultural	40	2,330	5%
Utilities	40	1,050	2%
Other	110	3,900	8%
All England	**1,700**	**46,770**	**100%**

Table 3b: Distribution of rateable value by size

	Number of properties (000s)	Rateable Value £m	Proportion of total rateable value
£0 to £4,999	680	1,640	4%
£5,000 to £9,999	370	2,630	6%
£10,000 to £24,999	350	5,390	12%
£25,000 to £49,999	150	5,090	11%
£50,000 or more	160	32,010	68%
All England	**1,700**	**46,770**	**100%**

All numbers rounded to the nearest 10,000 and values to the nearest £10 million. Due to rounding numbers may not sum to total

42. Certain sectors of the economy would seem to be more inclined to take up the scheme. Discussions with stakeholders suggest that retailers, particularly major retailers with multiple businesses across the UK, are attracted to the cash flow benefits the scheme provides. Major infrastructure businesses also have suggested they find these benefits attractive.

43. One factor that could reduce take-up is the fact that a proportion of businesses will already have paid their full liability for the year by the time the scheme comes into force. These ratepayers will not have the option to defer. The Government does not collect data on how many businesses pay in this manner.

44. The scheme also comes into effect midway through the fiscal year. Many businesses will have already paid a significant portion of their 2009-10 rates bill. They may feel they are able to pay at the pre-deferral level throughout the year and therefore not take up the scheme.

45. Anecdotal evidence from stakeholders suggests that the commercial (retail and office) sectors are therefore likely to have a higher uptake than in other sectors. Similarly, properties with a larger rateable value also seem more likely to defer than those with smaller rateable values.

46. On this basis we have determined three scenarios:

- *Scenario 1 – Assume that take up is high in the retail and commercial sectors and low in other sectors so that overall take up is on average around 50% of all hereditaments. The total cost of deferral including the amounts for deferral would be around £360m.*

- *Scenario 2 – Assume that take up is high in the retail and commercial sectors and medium in other sectors so that overall take up is on average around 70% of all hereditaments. The total cost of deferral including the amounts for deferral would be around £510m.*

- *Scenario 3 – Assume that take up is high in the retail and commercial sectors and high in other sectors so that overall take up is on average around 90% of all hereditaments. The total cost of deferral including the amounts for deferral would be around £650m.*

47. Based on these scenarios, the overall costs in 2009-10 for the deferral of the increase in business rates will be between **£360m and £650m**. Whilst this range is

fairly broad it demonstrates the uncertainty around the estimates for take-up. Table 4 summarises how the costs vary under these scenarios

Table 4 – Range of costs for deferring under varying scenarios of ratepayer rake-up

	Scenario 1	Scenario 2	Scenario 3
Assumed take up rates	50%	70%	90%
Total cost of deferring multiplier increase	330	470	600
Transitional relief deferred	30	40	50
Total cost of deferral	**360**	**510**	**650**

All figures rounded to the nearest £10 million

Level of bad debt

48. The deferral scheme allows the payments in the current year to be made in future payment periods. This introduces the risk of bad debt, as some portion of the ratepayers who choose to defer fail to make payments in future years. As mentioned previously in paragraph 37, it was originally estimated that 5% of the deferred payments due to be repaid each year will not be recovered. Data collected from local authorities however suggests a bad debt rate of around 1%[3].

49. On this basis, a likely range for the amount of revenue that could be written off as bad debt is between 1% and 5%. Table 5 below shows how the net present of the deferral scheme will change with these different levels of bad debt.

Table 5 – Final net present value under the varying scenarios of bad debt

		Scenario 1	Scenario 2	Scenario 3
Amount deferred		360	510	650
		Final Net Present Value		
Rate of bad debt	1%	-20	-30	-40
	3%	-30	-50	-60
	5%	-40	-60	-80

Figures rounded to the nearest £10million

Social Costs & Benefits

50. The policy is designed to smooth the effects of the spike in inflation of 5% in September 2008 and the end of transitional relief, which would have affected cash flow for businesses. By allowing payments due to those increases to be spread over three years the deferral scheme supports businesses, enabling them to better manage cash flow and thereby remain in operation and provide employment. Supporting businesses in this way has significant social and economic benefit for local communities and individuals.

Impact on main affected groups

51. *Local Authorities* are the other main group that this policy will affect. Local authorities are under regulation to diligently collect business rates for non-domestic properties. If an authority does not collect the correct amount from the ratepayer, it cannot offset this amount against their contribution to the central rate pool.

[3] These take up rates are published in the annual publication Collection Rates for Council tax and Non-Domestic Rates: http://www.local.communities.gov.uk/finance/ctax/cp078.htm

52. Although an authority is allowed to make a deduction from the gross amount for bad debts this does not allow the authority to make a deduction for sums which it cannot recover because it has not acted diligently to collect them. So under the current system, if a local authority did not take the steps currently available to collect the immediate payments form backdated liabilities in the current financial year it would be faced with paying that liability into the pool itself.

53. In regulating to implement the deferral scheme however, authorities that collect deferred payments in accordance with the new schedule of payments will be considered as acting diligently. For such authorities, they need not take account of sums outstanding, which will be collected in a future year under the schedule in calculating their gross contribution to the pool.

54. *Businesses*, and other occupiers of non-domestic property, are the main group affected by this policy. The deferral scheme is discretionary and requires 2009-10 ratepayers to apply for the scheme with their local billing authority, subject to the eligibility criteria set out previously. After they apply the billing authority will send out a new schedule of payments for their 2009-10 liability reflecting also the payments they will need to make on that liability in 2010-11 and 2011-12. For businesses choosing to defer, the ability to spread their 2009-10 payments over three years is of clear benefit in managing their cash flow in the short term. Due to the economic downturn some businesses may not have the financial reserves to pay their liabilities in the current fiscal year, particularly if they are facing significant increases after coming off transitional relief. In the longer term, the affected businesses will be able to plan ahead for making deferred payments alongside future year liabilities.

<u>Collection and Enforcement</u>

55. Local billing authorities manage and enforce the collection of business rates. The deferral scheme has been built into the existing regulatory framework which sets out the responsibilities of local authorities in carrying out business rates collection. In that way, the scheme will not significantly alter enforcement practices.

56. The deferral scheme allows ratepayers to defer payments from their 2009-10 liability into the following two fiscal years. The regulations establish minor changes in billing practices and payment tracking that have to be made in accordance with their deferral scheme over future years. These include ensuring the outstanding 2009-10 liability and its associated payment schedule can be shown on future year bills and paid alongside future year payments.

57. The regulations also set out how payments made in future years are counted against the 2009-10 and liabilities from future years. This is to ensure that billing authorities are able to take recovery action against any outstanding liability in those years as they would otherwise.

<u>Admin Burden & Hampton Principles</u>

58. This policy will introduce a new administrative process for local billing authorities. They will need to offer ratepayers the option of applying of deferring payments from their 2009-10 rates bills.

59. The ratepayer will need to apply, through a simple written application form, for the deferral from their billing authority. Billing authorities will then need to send out a new demand notice setting out the new schedule of payments to the ratepayer. Billing authorities will also need to present the schedule deferred payments in future year bills and allow for collection of deferred payments to be made alongside payments against

future year liabilities. Software for billing systems will need to accommodate these changes.

60. Once payments are recalculated, rescheduled and incorporated into billing software there should be little further administrative burdens for billing authorities. As payments deferred in 2009-10 are remade in future years and can be built into collection rate reporting, we do not envisage this process significantly affecting the collection of rates.

61. The net additional costs to local government as a whole will be fully funded in accordance with the Government's policy on new burdens. The estimated costs to administer the scheme for local government as a whole are £5.8m. This includes the costs associated with sending two mailings to inform ratepayers about the scheme, changes needed to billing software and actual re-billing for ratepayers who have taken-up the scheme.

62. The application process for businesses will be simple and ratepayers with multiple hereditaments in a single billing authority will be able to apply jointly for the deferral for all their hereditaments, cutting down significantly on administrative burdens. Some ratepayers do use software to make rates payments for their hereditaments, but in working with stakeholder groups, we believe any changes to software are easily accommodated.

63. Administrative costs will also vary depending on the size of a business and their capacity. Based on a response from a large company with multiple stores, the average cost per hereditament choosing to defer is estimated at around £50. There are approximately 1.7m hereditaments potentially eligible to defer, with take up estimated to be between 50% and 90%, the range of the administrative burden is between £400k and £800k. However, as these estimates are based solely on a response from large multinational company, economies of scale suggest that these costs are likely to represent the lower end of the administrative burden.

64. The deferral scheme adheres to the important Hampton Principle of allowing economic progress by increasing the protection made to businesses; in this case by allowing businesses greater flexibility in paying liabilities associated with increases in business rate bills during the economic downturn.

Environmental Costs and Benefits

65. There are no estimated environmental costs and benefits associated with the schedule of payments policy.

EU Requirements

66. The proposal for the schedule of payments does not relate to any EU Legislation.

Greenhouse emissions

67. The proposal for the schedule of payments will not in itself have any effect on greenhouse emissions.

Competition Assessment

68. We do not anticipate this policy proposal having an adverse impact upon fair and open business competition. We concluded that this policy would not require a full competition assessment.

Small Business Impact Test

69. Small businesses may be less well placed to weather the challenging economy so may benefit particularly from the ability to spread payments and manage cash flow over the fiscal year. Ratepayers of any size can defer the same proportion, 3% of their overall 2009-10 rates bills. It is felt that many properties coming off transitional relief were occupied by small businesses so they may see additional benefit from the scheme in deferring against that portion of the increase in their bills. We believe the scheme therefore offers significant potential benefits to small businesses.

Rural proofing

70. The deferral scheme is expected to have broadly equivalent impacts in rural and urban areas.

Race equality

71. It was concluded that this policy would not require a full race equality impact assessment.

Disability equality

72. It was concluded that this policy would not require a full disability equality impact assessment.

Gender equality

73. It was concluded that this policy would not require a full gender equality impact assessment.

Health impact test

74. It was concluded that this policy would not require a fully health impact test as this policy does not have a significant impact on human health.

Human rights

75. The policy is consistent with the Human Rights Act 1998.

Implementation/next steps

76. This Impact Assessment is attached to the regulations that will implement the proposal for the deferral scheme.

77. The policy will be reviewed after its end date on 31 March 2010. The Department is considering interim methods for collecting information to monitor the effectiveness of the policy within the data burdens guidelines.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No