EXPLANATORY MEMORANDUM TO

THE NON-DOMESTIC RATING (COLLECTION AND ENFORCEMENT) (LOCAL LISTS) (ENGLAND) (AMENDMENT) REGULATIONS 2009

2009 No. 204

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.

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 1989 Regulations"), which, amongst other things, provide for annual non-domestic rates liability to be discharged in instalments in many cases. However, where a rating list is altered with retrospective effect by a valuation officer, this can lead to backdated liability which, rather than being payable in instalments, is payable straightaway. These Regulations will allow, in certain cases, backdated liability to be discharged in instalments over a period of up to eight years.

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

3.1 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 to non-domestic rates for each financial year (which, for the purposes of local government finance, runs from 1st April to 31st March). In certain cases where the property is unoccupied, the owner is liable to 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. However, these Regulations are not relevant to centrally listed properties.

4.2 The 1989 Regulations govern the practicalities of billing for rates in respect of locally listed properties. They require the billing authority (the district or unitary authority for the area the property is situated in) to issue to the ratepayer for each financial year a demand notice, setting out their liability to rates (the contents of demand notices is governed by the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 (S.I. 2003/2613)). Broadly speaking, demand notices are to be served on or around 1st 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. Where those conditions are not met on the first day of the financial year but are subsequently met, the demand notice must be served as soon as possible after the day on which they are first satisfied.

4.3 Where a demand notice is issued, regulation 7 of the 1989 Regulations provides for liability under the notice to be discharged either in instalments calculated in accordance with Part 1 of Schedule 1 or in accordance with an agreement reached between the billing authority and the ratepayer. Where Schedule 1 applies, the number of instalments is ten or, if less, the number of whole months remaining in the year, less one. Where the demand notice is issued after 31st December, rates for the year are payable in a single instalment.

4.4 Where the demand notice is issued after the end of the financial year, Schedule 1 does not apply and instead regulation 7(5) provides that the notice shall require payment of the amount payable for the year in a single instalment.

4.5 One of the circumstances in which a demand notice can be issued after the end of a financial year is where, pursuant to his or her duty to maintain an accurate list, the valuation officer for the billing authority area enters a non-domestic property on the rating list for the first time after the end of the year but with an earlier effective date. The effective date of an alteration to a rating list – including by way of adding properties to it – is governed by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005 (S.I. 2005/659) ("the ALA Regulations"). Until a property is shown in a list, the conditions in sections 43 and 45 of the 1988 Act are not met and so no demand notice can be issued. Once those conditions are met, a demand notice will be issued in respect of liability from the effective date of the list entry.

4.6 In some cases where there is a difference between the day a rating list is altered and the effective date of the alteration, significant backdated liability can accrue. These Regulations insert a new Schedule 1A into the 1989 Regulations (and make associated amendments) which allows – in certain circumstances – billing authorities to agree with the ratepayer that the liability which accrued between the effective date of the list alteration and the date it was actually made can be discharged in instalments over up to 8 years. The details of these arrangements are set out in paragraph 7. This new power is time limited and will relate only to backdated list alterations made on or before 31st March 2010.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to the 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 properties are all valued in a consistent way to ensure that the burden of contributions to funding local government is shared fairly amongst businesses around the country. Non-domestic rating lists are maintained in order that the local authority can issue demands for payment of business rates.

7.2 Regulation 14(2) of the ALA Regulations provides that "where an alteration is made to correct any inaccuracy in the list or on after the day it is compiled, the alteration shall have effect from the day on which the circumstances giving rise to the alteration first occurred".

7.3 The policy underpinning this requirement, which can give rise to backdated rates bills, is to ensure that rates are paid at the correct level with effect from the point a property should first be rated or the point at which a change to a property occurs. This ensures all businesses are treated fairly.

7.4 Rates are collected under the 1989 Regulations. Although they provide for the payment of rates by instalments, this does not apply where the demand notice for a financial year is issued after the year has ended. In these circumstances, regulation 7(5) of the 1989

Regulations provides that the relevant demand notice shall require payment of the amount payable on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it. In principle, this gives local authorities some discretion as to when backdated liability is to be discharged, but the discretion is limited and the amount due must be collected in one go.

7.5 In the current economic climate, the Government understands it could be harder for businesses to discharge their liabilities when they are faced with significant unexpected backdated bills that result from unilateral action taken by a valuation officer to maintain the accuracy of the local rating list.

7.6 Therefore, to reduce the cash flow impact on businesses, and given the current economic difficulties, these amendments to the 1989 Regulations will allow businesses faced with certain unexpected backdated rates bills up to 8 years to pay the total amount due in respect of the period starting on the effective date of a rating list alteration and ending on the date the alteration was actually made.

7.7 Although a recent review of the rating of ports and the subsequent separate entry of a number of new properties within ports on local rating lists highlighted the impact of backdated liability, the amendments will apply to all ratepayers occupying properties that meet the qualifying criteria.

- ***Consolidation***

7.8 As all the substantive provisions being added to the 1989 Regulations by these Regulations are included in a single new Schedule (Schedule 1A), the Government does not consider that consolidating the 1989 Regulations is necessary.

8. Consultation outcome

8.1 There has not been a formal consultation on these amendments to the 1989 Regulations, which were announced as part of the Pre-Budget Report 2008. The Government became aware of the policy issue now being addressed as a result of the recent review of the rating of ports and the subsequent separate entry of a number of new properties within ports on local rating lists. The Government has received numerous representations on the issue from businesses that have been affected.

9. Guidance

9.1 The Government has issued a Business Rates Information Letter (a copy of which is available at http://www.local.communities.gov.uk/finance/busrats/bus2009.htm) setting out the criteria which will have to be met before a ratepayer and their billing authority can agree to reschedule backdated rates liability and this will act as guidance for billing authorities and ratepayers.

10. Impact

10.1 The impact of these amendments to the 1989 Regulations on businesses will be that, where the criteria are satisfied, backdated liabilities may be discharged over a period of up to 8 years. The ability to discharge backdated liability over a period has clear beneficial effects for the finances of a business in the short term; some of the affected businesses may not have the financial reserves to discharge these unexpected backdated liabilities immediately. In the longer term the affected businesses are able to plan ahead for the impact of their backdated liabilities.

10.2 The Department does not envisage that the amendments will impact significantly on billing authorities, which will have to collect payments in respect of both backdated liabilities and ongoing liability using existing collection and enforcement mechanisms.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The changes to the 1989 Regulations are applicable to businesses, irrespective of their size, and will benefit small businesses where the qualifying criteria are met.

11.2 Accordingly, it would not be appropriate to minimise the impact of these Regulations on firms employing up to 20 people.

11.3 The basis for the final decision was to assist all eligible businesses.

12. Monitoring & review

12.1 The policy will be reviewed after its end date on 31st March 2010.

13. Contact

Richard Enderby at the Department for Communities and Local Government, telephone 020 7944 4224 or email richard.enderby@communities.gsi.gov.uk, can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:	Title:	
Communities and Local Government	**Schedule of Payments Policy**	
Stage: Final Proposal Stage	**Version:** 0.1	**Date:** 27th January 2009
Related Publications:		

Available to view or download at:

http://www.

Contact for enquiries: Richard Enderby **Telephone:** 020 7944 4224

Alterations may be made to the Non-Domestic Rating list by the Valuation Office Agency (VOA) to ensure that rates are paid at the correct level with effect from the point a property should first be rated or the point when a change to a property occurs. Such alterations can be backdated to1 April 2005, which can in turn cause a backdated rate liability. In the current economic climate, and to assist businesses facing significant unexpected backdated rates bills, the Government is legislating for backdated liability which meets specific eligibility criteria to be paid over up to 8 years.

The aims of the policy:

(i) to help with the cash flow impact of backdated rates liability by allowing businesses more time to pay, thereby helping businesses which may not have the financial reserves to pay unexpected backdated liabilities up front; and

(ii) to ensure that local authorities that collect backdated liability in accordance with a schedule of payments need not take account of sums outstanding that will be collected in a future year under the schedule in calculating their annual gross contribution to the central non-domestic rating pool.

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

The policy options considered were:

(i) do nothing; and

(ii) implement the schedule of payments policy.

The preferred option is the implementation of the schedule of payments policy and this was announced in the Pre-Budegt Report on 24 November 2008.

The policy will be reviewed after its end date on 31 March 2010.

John Healey

5th February 2009

Summary: Analysis & Evidence

Policy Option:	Description:

COSTS

ANNUAL COSTS

One-off (Transition) **Yrs**

£

Average Annual Cost (excluding one-off)

£ 3.6 m

Description and scale of **key monetised costs** by 'main affected groups' This revenue neutral policy allows the affected businesses to repay backdated liabilities in equal installments over 8 years. The policy is likely, this year, to reduce the rates revenues by up to approximately £130 million. The policy is time limited to 31 March 2010 – so there will not be an average ongoing cost.

Total Cost (PV) **£ 33 million**

Other **key non-monetised costs** by 'main affected groups' The costs incurred through ratings list amendments are aimed to be recouped over a subsequent 8 year period. Because we are offering 8 yearly interest free installments to repay the liability, the value of the rates paid back will devalue by approximately £33 million.

BENEFITS

ANNUAL BENEFITS

One-off **Yrs**

Average Annual Benefit (excluding one-off)

£ 3.6 m

Description and scale of **key monetised benefits** by 'main affected groups' This policy allows businesses to delay paying their 'unexpected' tax burden, estimated to be worth £130 million in 2008/09. This will reduce the immediate liabilities on businesses who may not have the appropriate reserves. Businesses will then pay off their liability over a period of years; recouping the initial losses of the scheme.

Total Benefit (PV) **£ 33 million**

Other **key non-monetised benefits** by 'main affected groups' In the short term, this policy will aid cashflow by allowing the affected businesses to reduce their imminent rates liability, which in the current economic climate may enable businesses to remain operational. In the longer term this policy will allow businesses to plan ahead for the rates they are eligible for.

The analysis assumes (i) all of eligible properties receive a schedule of payments, (ii) calculations for maximum cost of the policy for eligible properties have not assumed any busiensses are in receipt of rates reliefs.

Price Base Year 2009	Time Period Years 8	**Net Benefit Range** (NPV) **£ 0**	**NET BENEFIT** (NPV Best estimate) **£ 0**

			England	
			xx March 2009	
			Local Authorities	
What is the total annual cost of enforcement for these organisations?			£ 0.00	
			Yes	
			No	
What is the value of the proposed offsetting measure per year?			£ 0	
What is the value of changes in greenhouse gas emissions?			£ 0	
			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
	No	No		

De minimis	De Minimis

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

1. Alterations may be made to the Non-Domestic Ratings list (maintained by the Valuation Office Agency (VOA)) which may reflect changes that take place on that day or prior to it. Recently it has come to light that some of the changes made to the list have caused some businesses to receive unexpected bills, backdated over several years.

2. All non-domestic properties that generate liability for business rates should be valued consistently to ensure that the burden of contributions to the funding of local government is shared fairly amongst businesses around the country.

3. Regulation 14(2) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005 states that "where an alteration is made to correct any inaccuracy in the list on or after the day it is compiled, the alteration shall have effect from the day on which the circumstances giving rise to the alteration first occurred".

4. The policy underpinning this requirement, which can give rise to backdated rates bills, is to ensure that rates are paid at the correct level with effect from the point the property should first be rated or the point at which a change occurs. This ensures all businesses are treated fairly. The Government does not believe it would be in line with the principles of taxation for such a backdated liability to be waived.

5. The collection of rates liability is governed by the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (SI 1989/1058) ("the C & E Regulations") made under Schedule 9 to the Local Government Finance Act 1988. Although this provides for the payment of rates by instalments, this does not apply where the demand notice for a financial year is issued after the year has ended.

6. In these circumstances, regulation 7(5) provides that the relevant demand notice *shall require payment of the amount payable on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it*. In principle, this does give local authorities some discretion as to when backdated liability is to be collected, but the discretion is limited and the amount due must be collected in one go. The local authority must act diligently to collect the backdated liability within the financial year the demand is issued.

7. Backdated liabilities from unilateral action by the Valuation Office Agency is not a new issue. However, in the current economic climate, the Government understands it could be harder for businesses that are faced with significant backdated bills to discharge their liabilities.

8. Therefore, in the present circumstances, and to reduce the cash flow impact on businesses, the Government proposes to allow businesses faced with certain unexpected backdated rates bills up to 8 years to pay the amounts due up to the ratings list update date.

9. Although a recent review of ports and the subsequent separate assessment of a number of new properties within ports highlighted the issue of the impact of backdated liability, the policy now proposed will apply to all ratepayers occupying properties that meet the criteria to benefit from a schedule of payments for backdated liability.

10. This policy is restricted to the 2005 ratings list, and applicants must meet a number of criteria;

    a. The backdated liability arises from 33 months or more having elapsed between the effective date of the list alteration and the ratings list update date;

b. The backdated liability arises as a result of an update to the 2005 compiled list only;
c. The backdated liability arises from an update to the rating list made on or before 31st March 2010;
d. The backdated liability arises as a consequence of new properties being added to the 2005 complied list;
e. The backdated liability arises as a result of unilateral action by the Valuation Office Agency (properties that are newly identified by notification from the billing authority to, or discovery by, the Valuation Office Agency) ;
f. An occupier has occupied one or more eligible properties within the billing authority area between the effective date and the ratings list update date, for a period totalling more than 33 months; and
g. The occupier was not previously liable for rates on a property "preceding" the new property assessment (i.e. not occupying previous property that forms a part of a new merged property, or not occupying a part of a property that has been split into two or more properties).

11. The new schedule of payments will not be mandatory as a business may wish to pay off their backdated liability in one go. Therefore, in the first instance the billing authority should act as if they were collecting revenues under the normal system.

12. Once in receipt of the demand notice for a backdated liability it will be for the ratepayer to request a schedule of payments. Where a ratepayer meets the criteria a local authority should grant a payment schedule.

13. This will allow for the local authority to collect backdated liability in accordance with the schedule. It will therefore be acting diligently and need not take account of sums outstanding that will be collected in a future year under the schedule in calculating their gross contribution to the pool.

14. Existing collection and enforcement procedures will be appropriate for the ongoing liability and the schedule of payments backdated liability.

15. The economic downturn means that businesses are more likely to be disproportionately affected by a sudden increase in rates liability. This policy aims to increase the resilience of businesses faced with unexpected backdated rates. In the short term this will aid the immediate cash flow of a business, which will reduce the risk of default on rates or the business becoming insolvent. In the long term businesses will be able to plan ahead for their rates liability.

Extent of the backdated liability:

16. **There is a large degree of uncertainty regarding this analysis, meaning that changes to our assumptions can have implications for the true value of the backdated liabilities affected by our scheme**. **A significant assumption had to be made around the value of property which VOA will find and add to the ratings list in 09/10 (all expected to be non-ports). Relatively small changes to the assumption could impact on the actual figures. Examples of this are set out in paragraphs 25 to 31.**

17. We have used aggregated data from the VOA to cost this policy. When properties are assessed by the VOA they receive a classification as to how they entered the ratings list;
    a. 'New build' – this is when a property has been newly built, i.e. it did not exist before.
    b. 'Split' – this is where a property was created from one or more existing properties, for example one office is split into two new offices which need to be distinct entities on the ratings list.
    c. 'Merger' – this is where a property is created from two or more existing properties joining together, i.e. three small offices are reformed to make one larger office.

d. ‘New (other)’ – this is where a property which had previously been on the ratings list is added on to it again, for example if a building was exempt, agricultural use, and then the use changed via a conversion to office unit, it can be added to the ratings list again after the work on it has been completed.

18. The estimated backdated liabilities can be seen in Table 1 below. These are the following assumptions that we have made during analysis:

a. For 2008/09 we have assumed that the rateable value of eligible properties will not increase from new assessments between 1 April and 31 October. Until the new regulations are in place, Local Authorities are required by law to collect the backdated liability already incurred, and it is likely that they will collect in this manner until the notification of changes to the regulations for the backdated liability are made official. This suggests that a portion of the backdated liability already incurred will have been collected by local authorities, meaning that the estimates produced below should represent a maximum value of backdated liabilities incurred.

b. The proposal is to assist those businesses who are facing unexpected liabilities from unilateral action by the VOA. As such one of the criteria is that an occupier was not previously liable for rates on a property “preceding” the new property assessment (at the ratings list alteration date) (i.e. not occupying previous property that forms a part of a new merged property – or not occupying a part of a property that has been split into two or more properties). As such we have estimated that:
    i. Merged properties would be unlikely to receive a schedule of payments; and
    ii. Half of the RV resulting from splits will not be able to receive a schedule of payments.

c. For ratings list entries in 2009/10 we have assumed a similar number of assessments as those that took place during the year 2004/05 (i.e. the same period within the last revaluation cycle). For this we have assumed the same proportions of properties liable for the same number of months of backdated liability. We have inflated the figures by 11.5% to allow for the increase in rateable values from the 2000 ratings list to the 2005 ratings list.

Table 1: Showing the extent of the backdated liabilities

From April 2008 until 31st October 2008

	Estimated liabilities (£m)	Additional in year liability (£m)
New builds	33	3
Splits	85	8
New (other)	2	0
Total (rounded)	***120***	***11***

Forecast from April 2009 to March 31st 2010

	Estimated liabilities (£m)	Additional in year liability (£m)
New builds	2	0
Splits	75	9
New (other)	22	5
Total (rounded)	***98***	14
Total estimated cost (£million)	***218***	***25***

19. Table 1 above suggests that the value of the backdated liabilities that could be subject to a schedule of payments before any reliefs may be applied to properties is ***£131 million***. The section below titled 'sensitivities around estimates' will look at how this projection could change under different assumptions.

20. A significant portion of the backdated liability results from the treatment of properties that are 'splits'. A larger share of rateable value than assumed for split properties receiving a schedule of payment could force the cost of this policy up. In contrast a lower share of rateable value of split properties will lower the cost of this policy.

Impact on Revenue from the Schedule of Payments

21. Table 2 below shows the costs and revenues produced from this policy from 2008/09 to 20017/18. These costs are based on the figures from table 1, if changes to our assumptions need to be made this will affect the cost of this policy.

Table 2: Showing the costs and revenues from the scheme within its life time (based on mid cost scenarios from table 1). The values in current prices have been shown, and underneath the Net Present Value (NPV) is shown. The following table only includes effects on NNDR revenues; no allowance for corporation tax has been included.

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Backdated liabilities introduced (loss)	131	112								
8 year schedule of payments (2008/09 liabilities)	2	15	15	15	15	15	15	15	13	
8 year schedule of payments (2009/10 liabilities)		7	14	14	14	14	14	14	14	7
Net cost	***-129***	***-91***	***29***	***29***	***29***	***29***	***29***	***29***	***29***	
Net present value	***-129***	***-88***	***27***	***26***	***25***	***24***	***23***	***22***	***22***	***14***

Note: the NPV is calculated using the standard discount rate of 3.5%

22. Using the net present values in the table above, it is likely that the value of the backdated liability will decrease by approximately £33 million during the lifetime of the scheme. This represents 14% of the value of the backdated liabilities thought to be incurred. It is important to note that during the lifetime of the scheme this devaluation of backdated liability by £33 million represents an overall transfer of money from central government to the businesses affected by this scheme.

23. Table 3 below shows the costs introduced by this policy in the next three years to Government. We have assumed that a proportion of the rates liability would be subject to receipt of reliefs and that some payments would commence in 2008/09. We can see that for 2008/09 and 2009/10 there are losses from the NNDR pool, but these losses begin to be recouped in the following year.

Table 3: Costs within next three years

	08-09	09-10	10-11
Non-Domestic Rates revenues	-115	-80	25
Corporation Tax consequences	10	15	0
Scoring as per Pre Budget Report	-105	-65	25

24. Allowing a delay in the payment from the affected businesses for this year will have a limited effect on the total business rates paid in as a whole. The estimated value of the backdated liability incurred during this year before reliefs (£131 million) represents 0.8% of the business rates expected to be collected within 2008/09.

Sensitivities around estimates

(a) Costs already incurred this year (2008/09)

25. The costs included in table 1 above relate to those already incurred based on our assumptions about eligibility, and full take up by eligible businesses. It is possible that some backdated liability could be introduced in the period 1st November 2008 to 31st March 2009, for which we have no data. We have therefore made some projections about the liability that could be incurred during the period 1st November 2008 to 31st March 2009, shown in table 4 below. These projections suggest that an additional £86 million backdated liability (not including in year liaibility) could be incurred during 2008/09, bringing the total estimated backdated liability to £248 million.

Table 4: showing our projected value of the schedule of payments during the rest of 2008/09 (November 1st 2008 to 31st March 2009)

	Estimated liabilities (£million)	Additional in- year liability (£million)
New builds	23	9
Splits	61	23
New (other)	1	0
***Total**	***86***	***32***
***Total for 2008/09**	***205***	***43***

*** Totals may not add due to rounding**

26. The analysis in table 4 makes the same assumptions as the previous calculations, but also assumes that;
    i. Liability introduced during the seven months of 2008/09 for which we have data will be incurred in the same proportions as the remaining 5 months of 2008/09.
    ii. Each property will have 36 months of backdated liability (1st April 2005 to 31st March 2008).
    iii. Each property will be liable for three quarters of a year backdated liability incurred during 2008/09

27. This estimate of liability could be affected by this year's unilateral action by the VOA resulting in a number of properties included in a sector wide review being introduced to the ratings list. This was a one off occurrence, suggesting that there may have been a peak in the numbers of properties being identified as having backdated liability.

(b) Estimations about costs that could be incurred during 2009/10

28. The analysis in table 1 suggests that approximately £112 million of backdated liability will be introduced during 2009/10. This figure was based on analysis of 2004/05 data. This data represents one valid method of estimating the future cost of this scheme.

29. We have also considered an alternative method of estimating the future cost. This method assumes that the same rate of amendments will be made during 2009/10 as those made in the seven months of 2008/09 for which we have data. In 2008/09 there was a sector wide review included in the unilateral action from the VOA. To more accurately reflect the situation that could happen in 2009/10, and we have removed the effect of this sector wide review from our analysis, and based our projections on the remaining affected properties.

Table 5: Estimating future backdated liabilities incurred during 2009/10

	Estimated liabilities 2009/10 (£m)	Additional in year liability (£m)
New builds	58	10
Splits	228	41
New (other)	3	1

Total	***289***	***52***

30. The scenario above follows the same assumptions as table 4

31. These costs above are significantly higher than those shown in table 1, but these differences are largely due to different assumptions made about the number of properties, and associated rateable values that may be affected by this scheme.

Key assumptions, sensitivities & risks

32. As we only know the aggregate numbers of properties and rateable values who could potentially fulfil the eligibility criteria listed above. A decrease in the numbers of people who are eligible for the schedule of payments will decrease the cost of the scheme.

33. Properties added to the list with an effective date of the 1st April 2005 may be eligible for transitional arrangements. We have made no provision for this in our above analysis, unless where stated.

34. We have not assumed that the properties would receive other reliefs in this analysis, unless stated. If properties are eligible for any reliefs this will lower the burden of the backdated relief, and hence lower the cost of the scheme.

35. We have made the assumption in our analysis that 50% of the rateable value of properties resulting from 'splits' will apply for a schedule of payments. An increased rateable value share of 'splits' applying for a schedule of payments will increase the value of the backdated liabilities, but a smaller share will lower this value.

36. We have assumed that all properties that have backdated liability will pay the large business multiplier (the small business multiplier with the small business supplement added). This may overestimate the true cost of the backdated liability. It is possible that some of the heriditaments within this analysis would be eligible to pay the small business multiplier, but we do not have any information about these properties.

37. We do not have information about the identity of the occupiers, we have assumed that all the rate payers will have been in occupation of the property and all will face the backdated liability. If fewer than all rate payers are in occupation then some of the backdated liability will be lost, and the value of the schedule of payments will go down.

38. We have assumed that all properties will be granted the ability to pay their backdated liabilities over a period of 8 years under the discretion of the local authority. We have also assumed that all properties eligible to apply for a schedule of payments will take it up. Some properties may wish to pay off their backdated liability in the immediate term, which will lower the cost of the scheme.

39. This analysis takes no account of businesses that may have already paid their backdated liabilities. If some businesses have already paid, this will lower the value of the backdated liabilities being paid.

Social Costs & Benefits

40. This policy is aimed at helping business rates payers who have received an unexpected back dated bill to be able to pay their bill in instalments. Spreading these payments over a number of years rather than paying in one instalment will alleviate the tax burden on affected businesses, and guard against financial difficulties for those businesses who do not have reserves. Supporting businesses in being able to trade, and keep employees employed, has many social and economic benefits for the areas surrounding the business.

Environmental Costs and Benefits

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

Impact on 'main affected groups'

42. *Businesses*, and other occupiers of non-domestic property, are the main group affected by this policy. These businesses will be able to request, if they meet the criteria, a schedule of payments from their Local Authority. The ability of these businesses to pay their liability over a period of time has clear beneficial effects for the finances and the cashflow of the business in the short term; some of the affected businesses may not have the financial reserves to pay their liabilities up front. Allowing businesses to delay the payment of backdated liability will reduce the cost of enabling cash – liquid assets to be put to use. In the longer term the affected businesses are able to plan ahead for the impact of their backdated liabilities.

43. *Local Authorities* are the other main group that this policy will affect. Local authorities must 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.

44. 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.

45. However, in regulating to provide for a schedule of payments, we consider that authorities which collect backdated liability in accordance with a schedule of payments will be acting diligently and need not take account of sums outstanding but which will be collected in a future year under the schedule in calculating their gross contribution to the pool.

Enforcement

46. Local authorities manage and enforce the collection of business rates, which is not being significantly altered by this policy. Existing collection and enforcement procedures will be appropriate for both the ongoing liability and any schedule of payment backdated liability.

Admin Burden & Hampton Principles

47. This policy will introduce a new admin process on Local Authorities who will set up a schedule of payments. The new schedule of payments will not be mandatory as a business may wish to pay off their backdated liability in one go. It will be up to the ratepayer to request to pay their backdated liability according to a schedule of payments over up to 8 years. Therefore, in the first instance the billing authority should act as if they were collecting revenues under the current system and issue demand notices for previous years – so no new additional burden for authorities.

48. If a ratepayer, who meets the criteria, requests a schedule of payments, then the local authority should set up instalment payments over 8 years for the backdated liability on top of the ongoing rates liability for the property. We do not therefore envisage that this additional admin requirement will be significant to implement or impact greatly upon the annual allowance for the collection of rates.

49. We do not envisage that setting up a schedule of payments for applicable businesses will have a significant admin burden for businesses as once implemented the schedule of payments will be collected alongside ongoing rates liability instalments.

50. This policy adheres with the important Hampton Principle of allowing economic progress by increasing the protection made to businesses; in this case shown by allowing businesses greater flexibility in repaying their backdated liability.

EU Requirements

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

Greenhouse emissions

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

Competition Assessment

53. The initial screening test was completed and 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

54. The proposal for the schedule of payments is expected to have broadly equivalent beneficial for both large and small businesses who may meet the criteria for a schedule for payments.

Rural proofing

55. The proposal for the schedule of payments is expected to have broadly equivalent impacts in rural and urban areas.

Race equality

56. The initial screening test was completed and concluded that this policy would not require a full race equality impact assessment.

Disability equality

57. The initial screening test was completed and concluded that this policy would not require a full disability equality impact assessment.

Gender equality

58. The initial screening test was completed and concluded that this policy would not require a full gender equality impact assessment.

Health Impact Test

59. The initial screening test was completed and 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

60. There are two provisions of the European Convention which could be relevant to the amendment

to SBRR - Article 1 of the First Protocol and Article 14.

61. Article 1 of the First Protocol provides that everyone is entitled to the peaceful enjoyment of his possessions, and may not be deprived of them except in the public interest and subject to the conditions provided for by law and by the general principles of international law. There is an exception for the right of the State to secure the payment of taxes and discretion for the State to impose taxes in the public interest. The Department is confident that this policy is in the public interest and proportionate to the policy aims.

62. The second provision is Article 14 of the Convention which provides that the enjoyment of the rights and freedoms set out in the Convention shall be secured without any discrimination. This means that any differential treatment in terms of the right to peaceful enjoyment of property, protected by Article 1 of the First Protocol, including differential treatment for tax purposes, is in principle unlawful. The European Court has, however, consistently said that differential treatment is not unlawful provided that it is objectively and reasonably justified.

Implementation/next steps

63. This Impact Assessment is attached to the regulations that will implement the proposal for the schedule of payments is expected to have broadly equivalent impacts in rural and urban areas.

64. In regard to the monitoring of the policy it is intended to request information after the scheme ends from local authorities on the number and amount of backdated liability granted a schedule of payments to assess the actual costs and benefits of the policy.

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.

	Yes	No
	Yes	No
	No	No
	No	No
	Yes	No
	Yes	No
	Yes	No
	Yes	No
	Yes	No
	Yes	No
	Yes	No
	Yes	No

Annexes