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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 143**

**BUSINESS IMPROVEMENT DISTRICTS**

The Business Improvement Districts (General)  
Regulations (Northern Ireland) 2014

*Made* - - - - *20th May 2014*

*Coming into operation* *1st July 2014*

The Department for Social Development, in exercise of the powers conferred by sections 2,10,14,15,16,17 and 18 of the Business Improvement Districts Act (Northern Ireland) 2013<sup>(1)</sup>, makes the following Regulation:

**Citation, commencement and interpretation**

1. (1) These Regulations may be cited as the Business Improvement Districts (General) Regulations (Northern Ireland) 2014 and shall come into operation on the 1<sup>st</sup> July 2014.

(2) In these Regulations—

“the 2013 Act” means the Business Improvement Districts Act (Northern Ireland) 2013;

“the 2014 (Miscellaneous) Regulations” means the Business Improvement Districts (Miscellaneous) Regulations (Northern Ireland) 2014;

“alteration ballot” has the meaning given in regulation 19;

“alteration proposals” means proposals in relation to the alteration of BID arrangements pursuant to regulation 16;

“ballot holder” has the meaning given in regulation 6;

“barcode” means marks—

- (a) appearing on the ballot paper and containing in an encoded form information relating to a voter and a ballot;
- (b) capable of being scanned electronically in a manner that permits the encoded information contained in the marks to be decoded; and
- (c) in which the information encoded in the marks cannot be decoded when read only by the human eye;

“BID” means business improvement district under Section 1 of the 2013 Act;

“BID ballot” means a ballot under section 5(1) of the 2013 Act;

“BID body” means the body (whether corporate or not corporate) responsible for the implementation of the works or services to be provided within the BID arrangements, where a BID body is included in the BID proposals in terms of paragraph (1)(a) of Schedule 1 to these Regulations;

“BID levy” means a levy that is imposed on those persons who are, in respect of particular BID proposals, entitled to vote in accordance with section 6(2) of the 2013 Act;

“BID proposer” means a person who draws up BID proposals;

“billing body” means the person that is appointed by the district council in respect of the geographical area of the business improvement district for the purposes of the administration, collection and recovery of the BID levy (and which may be a district council or some other person);

“commencement date”, subject to regulation 9(12), means the day, pursuant to section 11(3) of the 2013 Act, the BID arrangements are to come into force;

“the day of the ballot” means the day determined by the ballot holder, in accordance with Schedule 2, as the day by which ballot papers must be returned to the ballot holder;

“demand notice” means the notice required to be served under paragraph 2(1) of Schedule 4;

“electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

- (a) by means of an electronic communications network (within the meaning of the Electronic Communications Act (Northern Ireland) 2001)<sup>(2)</sup>; or
- (b) by other means but while in an electronic form;

“eligible ratepayer” means a person as described in section 6(3) of the 2013 Act;

“NAV list” has the same meaning as in the Rates (Northern Ireland) Order 1977<sup>(3)</sup>;

“re-ballot” means a BID ballot, renewal ballot, or alteration ballot, as the case may be, which is required to be arranged pursuant to regulation 9(10);

“relevant property” has the same meaning as provided for in section 6(4) of the 2013 Act for the purposes of that section;

“renewal ballot” means a ballot under section 16(2) of the 2013 Act;

“renewal proposals” means proposals in relation to the renewal of the BID arrangements under section 16(2) of the 2013 Act;

“veto” means a veto by the district council pursuant to section 9 of the 2013 Act; and

“working day” means any day which is not a Saturday, Sunday or a public holiday.

## **BID proposer**

### **2. BID proposals may be drawn up by—**

- (a) the district council; or
- (b) any person who, at the date they send BID proposals to the district council under regulation 5(2)(a)—
  - (i) is a non-domestic ratepayer in relation to relevant property situated in the area to be comprised in such proposals;

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(2) 2001, c.9 (NI). (as amended by 2003, c.21)

(3) 1977 No. 2157 (N.I. 28)

- (ii) has an interest in land (situated in the proposed business improvement district) as an owner, a holder of a standard security or tenant, or, directly or indirectly, receives rent for the land (whether or not that person is a non-domestic ratepayer in relation to that land); or
- (iii) is a body (whether corporate or unincorporated) one of whose purposes is developing BID proposals, or which has as one of its functions, town or city centre management.

### **Notice of BID proposal**

3. A BID proposer shall, at least 98 days before sending the notice required under regulation 5(2)(a)(ii), notify, in writing, the district council and the Department of the proposer's intention to ask the district council to put the BID proposals to a ballot.

### **BID proposals, renewal proposals, alteration proposals and preliminary procedures**

4. (1) BID proposals, renewal proposals or alteration proposals, as the case may be, shall include the matters mentioned in Schedule 1.

(2) Where a BID proposer decides to seek approval of BID proposals in a ballot or the BID body decides to seek approval of alteration proposals in an alteration ballot or renewal proposals in a renewal ballot, it shall—

(a) send to the Department and the district council—

(i) a copy of the BID proposals, alteration proposals or renewal proposals, as the case may be, together with—

(aa) a summary of the consultation it has undertaken with those persons eligible to vote on the proposals;

(bb) the proposed business plan (including the estimated cashflow, an estimate of the predicted revenue to be generated and the predicted expenditure to be spent under the BID arrangements, the predicted budget over the duration of the BID arrangements and the contingency margin included in the budget);

(cc) the financial management arrangements for the BID body, and the arrangements for the periodically providing the district council with information on the finances of the BID body.

(ii) a notice in writing requesting the district council to instruct the ballot holder to hold a BID ballot in relation to the BID proposals, an alteration ballot in relation to the alteration proposals or a renewal ballot in relation to the renewal proposals, as the case may be; and

(b) provide the district council with such information as they shall reasonably require to satisfy themselves that the BID proposer or, as the case may be, the BID body, has sufficient funds to meet the costs of the BID ballot, the renewal ballot, or the re-ballot in relation to the BID ballot, or the renewal ballot, as the case may be, should it be required to do so under regulation 10.

(3) Where—

(a) a BID proposer decides to seek approval of BID proposals in a BID ballot; or

(b) a BID body decides to seek approval of alteration proposals in an alteration ballot or renewal proposals in a renewal ballot,

it shall send a copy of the BID proposals, alteration proposals, or renewal proposals, as the case may be, and the proposed business plan, to any person who is eligible to vote on the proposals who requests a copy.

(4) Where the district council is of the view that the BID proposals, renewal proposals or alteration proposals conflict with a policy formally adopted by and contained in a document published by the council (whether or not the council is under a statutory duty to prepare such document) the council shall, as soon as reasonably practicable after receiving the proposals, notify the BID proposer or BID body, as the case may be, in writing explaining the nature of that conflict.

**Instructions to hold a BID ballot, renewal ballot, alteration ballot or re-ballot**

5. (1) Where the district council—
- (a) subject to paragraph (2), receives a notice pursuant to regulation 4(2)(a)(ii); or
  - (b) receives a notification from the Department under regulation 10(10) requiring it to arrange a re-ballot;

it shall—

- (i) instruct the ballot holder to hold a BID ballot, a renewal ballot, an alteration ballot or re-ballot, as the case may be.

(2) Where the district council receives a notice pursuant to regulation 4(2)(a)(ii), it shall not be required to instruct the ballot holder under paragraph (1) until such time as the BID proposer or Bid body, as the case may be, complies with the requirements of regulation 5(1) and (2).

**Ballot holder**

6. (1) The person who holds a BID ballot, renewal ballot, alteration ballot or re-ballot (“the ballot holder”) shall be the person the district council has appointed as the returning officer for the purpose of a BID ballot.

(2) The ballot holder may by written notice appoint one or more persons to discharge all or any of his functions under these Regulations.

**Arrangements for holding a ballot and conduct of a ballot**

7. On receipt of an instruction under regulation 5, the ballot holder shall make arrangements for conducting a BID ballot, alteration ballot, renewal ballot or re-ballot, as the case may be, in accordance with Schedule 2.

**Declaring a ballot void**

8. (1) Subject to paragraph (3), the Department may declare void a BID ballot, renewal ballot, alteration ballot or re-ballot if it appears to it that a material irregularity has occurred.

- (2) In this Regulation, “material irregularity” means—
- (a) a contravention of any requirement of these Regulations which, in the opinion of the Department, means it is likely that voting in the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, has been affected to a significant extent by the contravention;
  - (b) persons other than persons entitled to vote have purported to vote in the BID ballot and, in the opinion of the Department, it is likely that the result of the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, has been affected to a significant extent;
  - (c) persons entitled to vote have been prevented from voting or hindered from doing so freely in accordance with their own opinion and , in the opinion of the Department, it is likely that the result of the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, has been affected to a significant extent;

- (d) that, in the opinion of the Department, there has been fraudulent activity in the conduct of the ballot;
- (e) that, in the opinion of the Department, significant errors have been made in the matters to be included in the BID proposals as specified in Schedule 1;
- (f) that, in the opinion of the Department, there has been significant change in local circumstances; or
- (g) that, in the opinion of the Department, inadequate guidance or information has been provided to enable those eligible to vote in the BID ballot, renewal ballot, alteration ballot or re-ballot (as the case may be) to vote.

(3) Paragraph (1) shall not apply unless, by the date which is 28 days after the notice of the result is published pursuant to paragraph 17 of Schedule 2, a person (“the complainant”), being a person or group of persons referred to in paragraph (4), has made a request (by notice given in writing) to the Department to exercise its powers under this regulation, specifying the reason for such a request.

(4) The persons mentioned in paragraph (3) are—

- (a) the BID proposer or the BID body;
- (b) at least 5 per cent of the number of persons entitled to vote in the BID ballot, renewal ballot, alteration or re-ballot, as the case may be; or
- (c) the district council.

(5) On receipt of a request under paragraph (3), the Department shall notify the complainant, the district council, and the BID proposer or the BID body, in writing that it has received the request, and send a copy to each of them.

(6) Where two or more requests relate to the same ballot, the Department may decide those requests together.

(7) Within 28 days of the date of the notice given by the Department under paragraph (5), the complainant, the district council, and the BID proposer or the BID body, may serve on the Department written representations in respect of the request.

(8) A copy of the representations made by one party shall be sent by the Department to the other parties and shall be accompanied by a statement explaining the effect of paragraph (9).

(9) Any party to whom a copy of representations is sent under paragraph (8) may within 14 days of receiving them serve on the Department written representations in reply and the Department shall send a copy of any such representations to the other parties.

(10) The Department shall notify the complainant, the district council, and the BID proposer or the BID body, in writing of their decision and where they declare void a BID ballot, renewal ballot, alteration ballot or re-ballot, they shall notify the district council in writing requiring it to arrange for a re-ballot or, as the case may be, a further re-ballot to be held.

(11) Where the Department declare void a BID ballot, renewal ballot, alteration ballot or a re-ballot in relation to such a ballot and it is of the opinion that the material irregularity was caused by the actions or omissions of the BID proposer or BID body, it shall issue a notice in writing to that effect with its decision notice, and it shall include in the notice an explanation of the effect of this regulation.

(12) Where the Department declares void a BID ballot, renewal ballot, alteration ballot or a re-ballot in relation to such a ballot—

- (a) the BID arrangements, the renewed BID arrangements or the alterations to the BID arrangements, to which the ballot declared void relates, shall not come into force on the commencement date; and

- (b) subject to paragraph (13), the BID arrangements, the renewed BID arrangements or the alterations to the BID arrangements, if subsequently approved in the re-ballot, shall come into force on such day as the district council determines.

(13) The day determined under paragraph (12) shall be no later than a year after the date of the publication of the notice of the result pursuant to paragraph 17 of Schedule 2.

#### **Payment of costs of a ballot**

9. (1) The district council may require the BID proposer or the BID body to pay the costs of arranging and holding the ballot, and the district council may recover this amount as a civil debt due to it.

(2) The costs referred to in paragraph (1) include any expenses properly incurred by the ballot holder.

#### **Appeal against veto**

10. (1) A person (“the appellant”) who wishes to appeal against a veto under section 10(1) of the Act shall serve on the Department, within 28 days of the veto notice being given by the district council under section 9(2) of the Act, a notice in writing (“the appeal notice”) accompanied by a statement of the reasons for which the appeal is made.

(2) On receipt of the appeal notice the Department shall–

- (a) notify the appellant and the district council in writing that it has received the appeal notice; and
- (b) send a copy of the appeal notice to the district council.

(3) Where two or more appeal notices relate to the same veto, the Department may decide those appeals together.

(4) The appeal shall be determined by way of written representations to be made to the Department.

(5) Within 28 days of the date of the notice given by the Department under paragraph (2), the appellant and the district council may serve on the Department written representations in respect of the appeal.

(6) A copy of the representation made by one party to the appeal shall be sent by the Department to the other parties to the appeal and shall be accompanied by a statement explaining the effect of paragraph (7).

(7) Any party to an appeal to whom a copy of representations is sent under paragraph (6) may within 14 days of receiving them serve on the Department further written representations in reply, the Department shall send a copy of any such further representations to the other parties to the appeal, and then no further written representations shall be allowed.

(8) In deciding whether to allow an appeal, the Department shall take into account the following matters–

- (a) the level of support (as evidenced by the result of the BID ballot or re-ballot, as the case may be) for the BID proposals, where such information is available;
- (b) the nature and extent of the conflicts referred to in regulation 4 of the 2014 (Miscellaneous) Regulations;
- (c) the structure of the proposed BID levy and how the financial burden of the business improvement district is to be distributed amongst ratepayers in the geographical area of the business improvement district;

- (d) how the financial burden of the business improvement district may have been disproportionately distributed among ratepayers as a result of the selection of the geographic area or areas of the business improvement district;
  - (e) the extent to which the BID proposer discussed the BID proposals with the district council before submitting the BID proposals to the council under regulation 5;
  - (f) whether, after the date on which the notice pursuant to regulation 5(2)(a)(ii) is received, the district council changed any policy formally adopted by and contained in a document published by the council so that such policy then conflicted with the BID proposals; and
  - (g) the cost incurred by any person in developing the BID proposals and canvassing in relation to the BID proposals.
- (9) As soon as reasonably practicable after a decision has been made, the Department shall send notice of their decision in writing to the appellant and the district council.

### **BID Revenue Account**

- 11.** (1) Schedule 3 shall have effect with respect to the keeping of the BID Revenue Account
- (2) Where the district council has more than one business improvement district, it shall ensure a separate BID Revenue Account is kept for each of the business improvement districts.
- (3) This paragraph applies where BID arrangements come to an end (whether by reason of termination under regulation 18 or otherwise) and there is a credit to the BID Revenue Account which, after deducting a reasonable sum for the cost of administering the arrangements for crediting or refunding the amount, would provide a credit or refund of at least £10 for each person who was liable to pay the BID levy immediately prior to the end of the BID arrangements (in this regulation, a “previous levypayer”).
- (4) Where paragraph (3) applies, the district council shall-
- (a) calculate the amount of the credit to the BID Revenue Account (after the deduction referred to in paragraph (3) has been made) which is to be credited or refunded to each previous levypayer; and
  - (b) ensure the amount to be credited or refunded to each previous levypayer is calculated by reference to the amount of the BID levy each previous levypayer was liable to pay for the last chargeable period of the BID arrangements; and
- (5) Where paragraph (3) does not apply, the district council shall carry the credit balance in the BID Revenue account to the credit of its general fund.

### **Administration of the BID levy etc**

- 12.** (1) The district council in whose area the business improvement district is situated may appoint a person for the purpose of the administration, collection and recovery of the BID levy and any references in these Regulations to “billing body” are to that person.
- (2) Where the district council does not appoint such a person it shall carry out the functions mentioned in paragraph (1) and any reference in these Regulations to the billing body shall be construed as a reference to the district council.
- (3) The billing body shall, by the commencement date, provide for the administration, collection and recovery of the BID levy.
- (4) Schedule 4 shall have effect in relation to the administration, collection and recovery of the BID levy.

### **Joint arrangements**

13. (1) This regulation applies to joint arrangements.
- (2) The district councils concerned in the joint arrangements shall appoint a single billing body in respect of the business improvement district.
- (3) Such a billing body appointed by the district councils under paragraph (2) may be one of those councils, another council or some other person.
- (4) for the purposes of regulation 15, and paragraphs 8 and 9 of Schedule 4, reference to the district council shall be read as a reference to the district council which shall, for the purpose of the joint arrangement, keep the BID Revenue Account.

### **Alteration of BID arrangements without an alteration ballot**

14. (1) Subject to paragraphs (2) to (4), BID arrangements may be altered without an alteration ballot where the arrangements include a provision to that effect.
- (2) No provision mentioned in paragraph (1) may alter–
- (a) the geographical area of the business improvement district; or
  - (b) any liability for, or amount of, the BID levy.
- (3) Where paragraph (1) applies, the BID arrangements must include a provision describing the procedure to make the alteration.
- (4) The procedure referred to in paragraph (3) must include, where there is a BID body, a consultation between the BID body and the district council.
- (5) Where the BID arrangements are altered pursuant to this regulation–
- (a) the district council shall ensure the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are to come into force and shall send a notice in writing explaining the reason for and the effect of the alteration to each person liable for the BID levy; and
  - (b) sections 11 to 14 of the 2013 Act, regulations 12 to 17 and Schedules 3 and 4 shall have effect from the date the BID arrangements (as altered) come into force as if a reference in each of those provisions to “BID arrangements” were a reference to the BID arrangements (as altered).

### **Alterations of the BID arrangements following a ballot**

15. (1) Where there is a proposal to alter–
- (a) BID arrangements and those arrangements do not include a provision allowing for the arrangements to be altered without a ballot; or
  - (b) the geographical area of the business improvement district,
- the BID body may alter the BID arrangements in accordance with this regulation.
- (2) An alteration of the BID arrangements under this regulation is not to come into force unless the alteration proposals are approved by a ballot of the non-domestic ratepayers who are to be liable for the BID levy under the BID arrangements (as altered) (“an alteration ballot”) and they are not to be regarded as approved by an alteration ballot unless–
- (a) the number of votes cast in favour of the BID proposals exceeds the number of votes cast against the alteration proposals, in the same manner as calculated for the original arrangements under section 7(3) of the 2013 Act; and
  - (b) A exceeds B in the same manner as calculated for the original arrangements under section 7(4) and (7) to (10) of the 2013 Act,



but provided that the alteration proposals may specify that alternative voting conditions will apply to the alteration ballot, as they could (had they been specified) have applied to the original ballot in terms of section 8 of the 2012 Act.

- (3) Where BID arrangements are altered pursuant to this regulation
  - (a) the district council shall ensure the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are to come into force; and
  - (b) sections 11 to 14 of the 2013 Act, regulations 12 to 17 and Schedules 3 and 4 shall have effect from the date the BID arrangements (as altered) come into force as if a reference in each of those provisions to “BID arrangements” were a reference to the BID arrangements (as altered).

### **Termination of BID arrangements**

16. (1) The district council may terminate BID arrangements where—
  - (a) in the opinion of the council, the BID body will have insufficient finances to meet its liabilities for the current chargeable period and the council has—
    - (i) offered the BID body a reasonable opportunity to arrange for financing the shortfall or for a reduction in the works or services under the BID arrangements which is sufficient to offset the shortfall; and
    - (ii) given those persons who are liable to the BID levy an opportunity, at a public meeting, to make representations in relation to the termination of the BID arrangements; or
  - (b) the council is unable, due to any cause beyond the control of the council, to provide works or services which are necessary for the BID arrangements to continue and the council has (where there is a BID body) consulted the BID body and conducted a consultation with such representatives of the business community for the geographical area of the business improvement district as the council considers appropriate.
- (2) Subject to paragraph (3), the BID body may terminate the BID arrangements where—
  - (a) the works or services to be provided under the BID arrangements are no longer required; or
  - (b) the BID body is unable, due to any cause beyond its control, to provide works or services which are necessary for the BID arrangements to continue.
- (3) The BID body shall take no steps to terminate the BID arrangements until it has consulted the district council and conducted a consultation with such representatives of the business community for the geographical area of the business improvement district as the council considers appropriate.
- (4) The district council shall notify the BID body in writing of its intention to terminate the BID arrangements under paragraph (1) at least 28 days before the date of the termination.
- (5) The BID body shall notify the district council in writing of its intention to terminate the BID arrangements under paragraph (2) at least 28 days before the date of the termination.
- (6) Where BID arrangements are terminated under this regulation the district council shall, as soon as is reasonably practicable, give notice of the termination in writing to each person liable for the BID levy and the notice shall include an explanation of whether a repayment under regulation 15(4) is to be made.
- (7) In the event of a disagreement between the district council and the BID body in relation to whether circumstances have occurred under this regulation that would enable the termination of BID arrangements, the matter shall be referred to the Department for determination as to whether those circumstances have occurred.

## **Information**

17. The district council and the Department of Finance and Personnel shall supply the ballot holder with any information they require for the purposes of carrying out their functions under these Regulations.

## **Electronic communication of requests, applications or notices**

18. (1) Subject to paragraph (3) and without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954, any notice or other document required or authorised to be served on or sent or given to any person under the provisions of these Regulations may be served, sent or given, in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the conditions set out in paragraph (2), to that person at that address.

- (2) The condition mentioned in paragraph (1) is that the notice or other document shall be—
- (a) capable of being accessed by the recipient;
  - (b) legible in all material respects; and
  - (c) in a form sufficiently permanent to be used for subsequent reference,

and for this purpose “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if served or given by means of a notice or document in printed form.

(3) Paragraph (1) shall not apply to any notice required or authorised to be given to or served by a billing body on any person under paragraph 2 of Schedule 4.

(4) Where a person uses electronic communications to transmit any notice or other document for any purpose of these Regulations which is capable of being carried out electronically, he shall be taken to have agreed, except where a contrary intention appears, to the use of such communications and that his address for that purpose is the address incorporated into, or otherwise logically associated with, the notice or document.

Sealed with the Official Seal of the Department for Social Development on 20<sup>th</sup> May 2014

*Michael Daly*  
A senior officer of the Department for Social  
Development

SCHEDULE 1

Regulation 5

CONTENT OF BID PROPOSALS, RENEWAL PROPOSALS OR ALTERATION PROPOSALS

1. (1) Subject to sub-paragraphs (2) and (3), a BID proposal shall include—
  - (a) a statement of the works or services to be provided, the name of the person responsible for implementation of those works or services, whether this shall be a BID body, and the status of such person (whether a district council, a company under the control of a council, a limited company or a partnership);
  - (b) a statement of the existing baseline services provided by the district council or other persons with public functions;
  - (c) a description of the geographical area (including a map showing that area) in which the proposed BID arrangements are to have effect;
  - (d) a statement of whether all non-domestic ratepayers in the geographical area or a specified class of them are to be liable for the BID levy, an explanation of how the amount of the BID levy to be levied is to be calculated and an explanation of whether any of the costs incurred in developing the BID proposals, holding of the ballot or implementing the BID are to be recovered through the levy;
  - (e) a statement of the specified class of non-domestic ratepayer (if any) for which and the level at which any relief from the BID levy is to apply;
  - (f) a statement of whether the BID arrangements may be altered without an alteration ballot and, if so, which aspects of the BID arrangements may be altered in this way;
  - (g) a statement of the duration of the BID arrangements; and
  - (h) a statement of the commencement date of the BID arrangements.
- (2) In relation to sub paragraph (1)(c), the geographical area in which BID arrangements are to have effect shall not include part only of a relevant property.
- (3) In relation to sub paragraph (1)(h), the BID proposals shall specify how many days after the notice of the result is published (pursuant to paragraph 17 of Schedule 2) the BID arrangements will commence and such commencement date shall be no later than a year after the date of that notice.
2. The matters which shall be included in renewal proposals are—
  - (a) a statement of the proposed period (not exceeding 5 years) of the renewed BID arrangements; and
  - (b) a summary of the BID arrangements (including the geographical area of the business improvement district and the works or services provided, an explanation of who is liable for the BID levy, the level of the BID levy and how it is calculated).
3. (1) Subject to sub paragraph (2), the matters which shall be included in alteration proposals are a description of how it is proposed the BID arrangements are to be altered in relation to each of the following:—
  - (a) the works or services to be provided or the person to have responsibility for implementing the BID arrangements;
  - (b) a summary of the existing baseline services (if any) provided by the relevant district council;
  - (c) the geographical area (including a map showing that area) in which the proposed BID arrangements are to have effect;
  - (d) the non-domestic ratepayers in the geographical area who are to be liable for the BID levy, an explanation of how the amount of the BID levy to be levied is to be calculated and an

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explanation of whether any of the costs incurred in developing the BID proposals, holding of the ballot or implementing the BID are to be recovered through the BID levy;

- (e) the category of non-domestic ratepayer (if any) for which and the level at which any relief from the BID levy is to apply;
- (f) whether the BID arrangements may be altered without an alteration ballot and, if so, which aspects of the BID arrangements may be altered in this way; and
- (g) a statement of the commencement date of the alterations to the BID arrangements.

(2) In relation to sub paragraph (1)(c), the geographical area in which BID arrangements are to have effect shall not include part only of a relevant property.

(3) In relation to sub paragraph (1)(g), the BID body shall specify how many days after the notice of the result is published pursuant to paragraph 17 of Schedule 2 it proposes the alterations to the BID arrangements will come into force and such commencement date shall be no later than a year after the date of that notice.

SCHEDULE 2

Regulation 8

RULES FOR BID BALLOTS, RENEWAL BALLOTS AND ALTERATION BALLOTS

*PROVISIONS AS TO TIME*

Timetable

1. The proceedings of the ballot shall be conducted in accordance with the following Table.

<i>Proceeding</i>	<i>Time</i>
The district council instructs the ballot holder	In accordance with regulation 5
Publication of notice of ballot	At least 42 days before the day of the ballot, in accordance with paragraph 3
Day of the ballot	The day determined in accordance with paragraph 2
Declaration of the result	In accordance with paragraph 17

RULES FOR BALLOTS

2. (1) Subject to sub-paragraph (2), the ballot holder shall secure that the day of the ballot is—
  - (a) a working day;
  - (b) at least 42 days after the date on which the ballot papers were sent to voters (or, where the ballot papers were sent on more than one date, the last such date); and
  - (c) at least 42 days after, but no more than 90 days after, the date on which the ballot holder published the notice required by paragraph 3(a).

(2) No later than 42 days before the day of the ballot, the ballot holder may postpone the day of the ballot by up to 15 working days.

(3) Where the ballot holder postpones the ballot under sub paragraph (2), they shall notify the district council and the BID proposer or BID body, as the case may be, in writing of the new day

of the ballot and the reasons for the postponement and the ballot holder shall take reasonable steps to publicise the new day of the ballot.

Ballots – preliminary procedures

3. The ballot holder shall, at least 42 days before the day of the ballot—
  - (a) publish notice of the ballot stating—
    - (i) the day of the ballot; and
    - (ii) that the ballot will be taken entirely by post, with votes to be returned by 5 p.m. on the day of the ballot;
  - (b) prepare a list of persons entitled to vote and proxies (if any);
  - (c) send to each person entitled to vote or, if applicable, that person’s proxy a statement which—
    - (i) explains the arrangements for the ballot;
    - (ii) explains that regulation 5(3) allows that person to request a copy of the BID proposals from the BID proposer; and
    - (iii) provides the name and address of the BID proposer; and
  - (d) send to the Department a copy of the notice referred to in sub-paragraph (a).

Ballots – general

4. (1) Each ballot shall be a postal ballot.
- (2) Each person entitled to vote in a BID ballot, renewal ballot, alteration ballot or re ballot, as the case may be, shall have one vote in respect of each relevant property occupied or (if unoccupied) owned by that person in the geographical area of the BID.
- (3) The rateable value of relevant property for the purposes of a BID ballot, renewal ballot, alteration ballot or re ballot, as the case may be, shall be the rateable value on the NAV list as at 5 p.m. on the day of the ballot and no account shall be taken of any alteration to the rateable value which is not shown on the NAV list immediately prior to the end of the day of the ballot.

Proxy voting

5. (1) Subject to the provisions of this paragraph, any person is capable of being appointed proxy to vote for another in a ballot and may vote in pursuance of the appointment.
- (2) The person entitled to vote cannot have more than one person at a time appointed as proxy to vote for that person in a ballot.
- (3) Where the person entitled to vote applies to the ballot holder for the appointment of a proxy to vote for that person in a particular ballot, the ballot holder shall make the appointment if the application meets the requirements of this paragraph and that the proxy is capable of being, and willing to be, appointed.
- (4) An application for the appointment of a proxy shall—
  - (a) state the full name and address of the person whom the person entitled to vote (the applicant) wishes to appoint as his/their proxy;
  - (b) state the address of the applicant’s relevant property or properties;
  - (c) be signed by the applicant; and
  - (d) contain a statement by the applicant that they have consulted the proxy so named and that that person is capable of being and willing to be appointed.
- (5) An application to appoint a proxy shall be refused for the purposes of a particular ballot if it is received by the ballot holder after 5 p.m. on the tenth day before the day of the ballot.
- (6) Where the ballot holder grants an application for the appointment of a proxy, they shall—

- (a) confirm by notice in writing to the person entitled to vote that the proxy has been appointed, their name and their address; and
  - (b) include the proxy's details on the list referred to in paragraph 3(b).
- (7) Where the ballot holder refuses an application to appoint a proxy, the ballot holder shall notify the applicant in writing of their decision and of the reason for it.
- (8) Subject to sub-paragraph (9), the appointment shall remain in force for that ballot only.
- (9) The appointment may be cancelled by the person entitled to vote giving notice to the ballot holder or by the proxy giving notice to the ballot holder that they no longer wish to act as proxy.
- (10) A notice under sub-paragraph (9) by a person entitled to vote cancelling a proxy's appointment shall be disregarded for the purposes of a ballot if it is received by the ballot holder after 5 p.m. on the fifth day before the date of the poll at that election.
- (11) Where the appointment of a proxy is cancelled under sub-paragraph (9), the ballot holder shall—
- (a) notify the person entitled to vote in writing that the appointment has been cancelled;
  - (b) notify the person whose appointment as proxy has been cancelled in writing, unless the ballot holder has previously been notified by that person that they no longer wish to act as proxy; and
  - (c) remove the name of the proxy from the record kept under paragraph 3(b).

Requirement of secrecy

6. (1) Every person attending the proceedings in connection with the issue or the receipt of ballot papers shall maintain, and aid in maintaining, the secrecy of the voting and shall not attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the way in which any vote is given in any particular ballot paper, or communicate any information with respect to those proceedings.

(2) Every person attending at the counting of the votes shall maintain, and aid in maintaining, the secrecy of voting and shall not communicate any information obtained at the counting of the votes as to the way in which any vote is given on any particular ballot paper.

(3) Nothing in this paragraph shall prevent the ballot holder and his clerks ascertaining the address and rateable value of each relevant property thereto which a vote is cast.

Notification of requirement of secrecy

7. The ballot holder shall make such arrangements as they think fit to ensure that every person attending at proceedings in connection with the issue or receipt of ballot papers or the counting of the votes has been given a copy in writing of the provisions of paragraph 6.

The ballot paper

- 8. (1) Nothing is to be printed on the ballot paper except in accordance with this paragraph.
- (2) Each ballot paper may have a number or barcode printed on the back.
- (3) The box in which a vote may be marked on the ballot paper shall not be less than 1.5 centimetres square.
- (4) All of the words on the ballot paper shall appear in the same size type.

Each ballot paper for a BID ballot, or a re-ballot in relation to a BID ballot, as the case may be, shall include the following wording—

Example Ballot

Are you in favour of the Business Improvement District proposals for *[insert a list of the names of the streets in the geographical area covered by the BID proposals]*?

Place a cross (X) in the box of your choice.

YES		NO	
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This vote is in respect of—

*[insert address of the relevant property of the person entitled to vote]*

I confirm that I am entitled to vote in respect of this relevant property

Signed.....

Name (in block capitals).....

Position..... (NB where the person entitled to vote is a company or partnership

Note: for your vote to be valid this ballot paper must be signed and returned to the ballot holder at *[insert address for return of ballot papers]* by 5 p.m. on *[insert the day of the ballot]*

(5) Each ballot paper for a renewal ballot, or re ballot in relation to a renewal ballot, shall include the following wording—

Example Ballot

Are you in favour of renewing the Business Improvement District arrangements for *[insert a list of the names of the streets in the geographical area covered by the business improvement district]* for a further period of *[specify duration of the proposed renewed BID arrangements]*?

Place a cross (X) in the box of your choice.

YES		NO	
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This vote is in respect of—

*[insert address of the relevant property of the person entitled to vote]*

I confirm that I am entitled to vote in respect of this relevant property

Signed.....

Name (in block capitals).....

Position..... (NB where the person entitled to vote is a company or partnership

Note: for your vote to be valid this ballot paper must be signed and returned to the ballot holder at *[insert address for return of ballot papers]* by 5 p.m. on *[insert the day of the ballot]*

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(6) Each ballot paper for an alteration ballot, or re ballot in relation to an alteration ballot (as the case may be), shall include the following wording—

Example Ballot

Are you in favour of the alteration of the Business Improvement District arrangements for *[insert a list of the names of the streets in the geographical area covered by the business improvement district]*?

Place a cross (X) in the box of your choice.

YES		NO	
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This vote is in respect of—

*[insert address of the relevant property of the person entitled to vote]*

I confirm that I am entitled to vote in respect of this relevant property

Signed.....

Name (in block capitals).....

Position..... (NB where the person entitled to vote is a company or partnership

Note: for your vote to be valid this ballot paper must be signed and returned to the ballot holder at *[insert address for return of ballot papers]* by 5 p.m. on *[insert the day of the ballot]*

Prohibition of disclosure of vote

9. No person who has voted shall, in any legal proceeding to question the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, be required to state the way in which he voted. Procedure on issue of ballot paper

10. (1) One ballot paper shall be issued in respect of each eligible ratepayer entitled to vote in the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, in respect of each relevant property for which he is entitled to vote.

(2) The address to which the ballot paper is to be sent is—

- (a) the address of the relevant property or the principal place of business of the person entitled to vote; or
- (b) in the case of a proxy, the address shown for the proxy on the list prepared under paragraph 3(b).

(3) At the same time there shall be issued to each person entitled to vote or, if applicable, that person's/ proxy—

- (a) a statement prepared by the ballot holder providing an explanation of the BID arrangements and the arrangements for the ballot; and
- (b) an envelope for the return of the ballot paper (referred to in this Schedule as the “return envelope”).

(4) For the purpose of delivering the ballot papers, the ballot holder may use—



- (a) a universal service provider (as defined in the Postal Services Act 2000)(4);
- (b) any other holder of a licence under Part 2 of the Postal Services Act 2000 whose licence permits it to convey such papers from one place to another; or
- (c) any other means of conveyance and delivery for which a licence is not required, pursuant to section 7 of the Postal Services Act 2000.

(5) Postage shall be prepaid on envelopes in which the ballot paper is issued and return postage shall be prepaid on all return envelopes.

(6) No person other than the ballot holder and their clerks may be present at the issue of ballot papers, unless permitted by the ballot holder to attend.

Spoilt ballot papers

11. (1) If a voter has inadvertently dealt with their ballot paper in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) that voter may return (either by hand or by post) to the ballot holder the spoilt ballot paper.

(2) On receipt of the spoilt ballot paper, the ballot holder shall issue another ballot paper, except where those documents are received later than 3 working days before the day of the ballot.

(3) The spoilt ballot paper shall be immediately cancelled.

(4) Where a voter applies in person, the ballot holder may hand a replacement ballot paper to that voter instead of delivering it in accordance with paragraph 10.

Lost ballot papers

12. (1) Where a voter has not received their ballot paper by the seventh working day before the day of the ballot, that voter may apply (whether or not in person) to the ballot holder for a replacement ballot paper.

(2) Such an application shall include evidence of the voter’s identity.

(3) Where the application is received by the ballot holder later than the date that is 3 working days prior to the day of the ballot and the ballot holder—

(a) is satisfied as to the voter’s identity; and

(b) has no reason to doubt that the voter did not receive the original ballot paper, the ballot holder shall issue another ballot paper.

(4) Where a voter applies in person, the ballot holder may hand a replacement ballot paper to that voter instead of delivering it in accordance with paragraph 10.

Receipt of return ballot papers

13. (1) A postal ballot paper shall not be taken to be duly returned unless it is received by the ballot holder (either by hand or post) or at any place for delivery specified in the notice of ballot as being a place of delivery before 5 p.m. on the day of the ballot.

(2) On receipt of a returned ballot paper, the ballot holder shall arrange for it to be kept in a secure receptacle until the votes are counted.

(3) No person other than the ballot holder and their clerks may be present at the receipt of the ballot papers, unless permitted by the ballot holder to attend.

The count

14. (1) As soon as practicable after the day of the ballot, the ballot holder shall make arrangements for counting the votes cast on such of the ballot papers as have been duly returned (in accordance with paragraph 13(1)) and record the number counted.

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(4) 2000 c.26.

(2) No person other than the ballot holder and their clerks may be present at the counting of the votes, unless permitted by the ballot holder to attend.

Rejected ballot papers

15. (1) Where a ballot paper is received which bears the same number or barcode as a ballot paper already received, both that ballot paper and the other ballot paper bearing the same number or barcode (as the case may be) shall be void and not counted.

(2) Any ballot paper which is unsigned, unmarked or void for uncertainty shall, subject to sub-paragraph (3), be void and not counted.

(3) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place; or
- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

shall not for such reason be deemed to be void if the voting intention appears clear.

Decisions on ballot papers

16. The decision of the ballot holder on any question arising in respect of a ballot paper shall be final.

Declaration of result

17. (1) The ballot holder shall certify—

- (a) the total number of votes cast in the ballot excluding any votes given on ballot papers rejected under paragraph 15;
- (b) the aggregate rateable value of each relevant property in respect of which a person voted in the ballot;
- (c) the total number of votes cast in favour of the question asked in the ballot;
- (d) the aggregate rateable value of each relevant property in respect of which a person voting in the ballot has voted in favour of the question asked;

(2) The ballot holder, having made the certification under sub paragraph (1), shall—

- (a) forthwith make a declaration of the matters so certified; and
- (b) give public notice of the matters so certified [within 7 days after the counting of the votes.

Validity

18. (1) No BID ballot, renewal ballot, alteration ballot or re ballot, as the case may be, shall be declared invalid by reason of any act or omission of the ballot holder or any other person in breach of the provisions of the Schedule, if it appears to a court considering the question that—

- (a) the BID ballot, renewal ballot, alteration ballot or re ballot, as the case may be, was so conducted as to be substantially in accordance with the provisions of this Schedule; and
- (b) the act or omission did not affect its result.

(2) A BID ballot, renewal ballot, alteration ballot or re ballot, as the case may be, unless proceedings are started in relation to it before the commencement date of the BID arrangements, renewed BID arrangements or altered BID arrangements (as the case may be), shall be deemed to have been to all intents a good and valid ballot.

Retention of ballot papers

19. The ballot holder shall retain the ballot papers for 6 months after the day of the ballot and then, unless otherwise directed by order of a court, shall cause them to be destroyed.

SCHEDULE 3

Regulation 15

THE KEEPING OF THE BID REVENUE ACCOUNT

PART 1

Credits to the Account

1. For each year a district council which is required to keep a BID Revenue Account (“the account”) shall carry to the credit of the account equals to the items listed in this Part of this Schedule.

Item 1: BID revenues

Sums receivable for the year under sections 3 and 12 of the 2013 Act.

Item 2: Income from BID services and facilities

Sums receivable by the district council for the year in respect of services or facilities provided by it (excluding contributions made by it to the BID under section 3 of the 2013 Act) under the BID arrangements.

Item 3: reduced provision for bad or doubtful debts

The following, namely—

- (a) any sums debited to the account for a previous year under sub-paragraph (a) of item 3 of Part 2 of this Schedule which have been recovered by the council during the year; and
- (b) any amount by which, in the opinion of the council, any provision debited to the account for a previous year under sub-paragraph (b) of that item should be reduced.

Item 4: credit balance from previous year

Any credit balance shown in the account for the previous year.

PART 2

Debits to the Account

2. For each year a district council which is required to keep a BID Revenue Account (“the account”) shall carry to the debit of the account amounts equal to the items listed in this Part of this Schedule.

Item 1: BID cost of collection

The cost to the council for the year in respect of collecting the BID levy.

Item 2: BID expenditure

The expenditure of the council for the year in respect of the BID arrangements (including sums paid to a third party to undertake the works or services under the BID arrangements).

Item 3: provision for bad or doubtful debts

The following, namely—

- (a) any sums credited to the account for the year or any previous year under item 1 or 2 of Part 1 of this Schedule which, in the opinion of the council, are bad debts which should be written off; and
- (b) any provision for doubtful debts which, in their opinion, should be made in respect of sums so credited.

Item 4: debit balance from previous year

Any debit balance shown in the account for the previous year.

## SCHEDULE 4

### [IMPOSITION], ADMINISTRATION, COLLECTION AND RECOVERY OF BID LEVY

#### **Interpretation**

1. (1) In this Schedule “relevant period” in relation to a notice means the chargeable period to which the notice relates.

(2) Where any notice which is required or authorised by this Schedule to be given to or served on a person relates to a relevant property which is (or, where such notice relates to more than one relevant property, one or more of which is) a place of business of that person, it may be given or served by leaving it at, or by sending it by post to him or her at, the place of business (or, one of those places of business).

(3) Any notice required or authorised to be given to or served on any person by a billing body, or any information required by paragraph 3(2) to be supplied to any person when a demand notice (within the meaning of this Schedule) is served-

- (a) may be so given, served or supplied by sending the notice or information to that person by electronic communication to such address as may be notified by that person for that purpose; or
- (b) shall be treated as given, served or supplied to that person where—
  - (i) the billing body and that person have agreed for that purpose that any documents containing the notice or information may be accessed by that person on a website;
  - (ii) the document is a document to which that agreement applies;
  - (iii) the billing body has published the document on a website; and
  - (iv) that person is notified, in a manner for the time being agreed for those purposes between that person and the billing body, of the publication of the document on a website and how that person may locate and access the document.

(4) For the purpose of any legal proceedings, a notice given in accordance with sub-paragraph (2) shall, unless the contrary is proved, be treated as served on the second business day after—

- (a) it was served; or
- (b) notification of its publication was given in accordance with sub-paragraph (2)(b)(iv).

(5) A person who has notified an address for the purpose of sub-paragraph (2)(a) shall, by notice in writing to the billing body, advise the billing body of any change in that address; and the change shall take effect on the third business day after the date on which the notice is received by the billing body.

(6) A person who has notified an address for the purpose of sub-paragraph (2)(a) may, by notice in writing to the billing body, withdraw that notification; and the withdrawal shall take effect on the third business day after the date on which the notice is received by the billing body.

(7) A person who has entered into an agreement with the billing body under sub-paragraph (2)(b) (i) may, by notice in writing to the billing body, inform them that the person no longer wishes to be a party to the agreement; and where such notice is given, the agreement shall be treated as revoked on the third business day after the date on which the notice is received by the billing body.

(8) In this Schedule “the amount payable” means the amount that an eligible ratepayer falling within the description of persons liable for the BID levy in the BID arrangements is liable to pay by virtue of section 13 of the 2013 Act.

### **Service of demand notices**

2. (1) For each chargeable period a billing body shall, in accordance with paragraphs 3 to 6, serve a notice in writing on every person who is liable for the BID levy in relation to the BID arrangements for the period.

(2) Different demand notices shall be served for different chargeable periods.

(3) A demand notice shall be served with respect to the amount or amounts payable for every relevant property and in respect of which a person or persons are liable for the BID levy.

(4) A demand notice served under sub-paragraph (3) may relate to the amount payable in respect of more than one relevant property, and the amounts due under such a notice, and the times at which they fall due, shall be determined as if separate notices were served in respect of each relevant property.

(5) Subject to sub-paragraph (6), a demand notice shall be served on or as soon as practicable after—

(a) except in a case falling within paragraph (b), the first day of the relevant period; or

(b) if the person only falls within the description of person to be liable to the BID levy specified in the BID arrangements (as regards the relevant property concerned) after the day mentioned in paragraph (a), the first day after the day on which that person falls within that description.

(6) A demand notice may be served before the beginning of the relevant period on a person who, on the day it is issued, the billing body considers will fall within the description of person to be liable to the BID levy specified in the BID arrangements as regards the relevant property to which it relates; and if it is so served, any reference in this Schedule to a person who is liable for the BID levy shall, in relation to that notice, be construed as a reference to that person.

### **Content of demand notices**

3. (1) A demand notice shall contain—

(a) the address and description of each relevant property to which the notice relates;

(b) a statement of how the BID levy is calculated for each relevant property to which the notice relates and the amount of the BID levy payable;

(c) a statement of the days on which, for the purposes of calculating the payments required to be made under the notice, the billing body understands that the person who is liable for the BID levy, in respect of the relevant property, fell within the description of persons who are to be liable for the BID levy for the chargeable period in question; and

(d) the date or dates on which payment of the BID levy is due to be made.

(2) A billing body may, when it serves a demand notice, supply to the person upon whom the notice is served the following information—

(a) the revenue from the BID levy the billing body was due to receive in the previous year;

(b) the amount spent on the BID arrangements in the previous year;

(c) a description of the matters on which that amount was spent; and

(d) a description of the matters on which it is intended to spend the revenue from the BID levy in the financial year.

### **Invalid notices**

4. (1) Where a demand notice does not comply with paragraph 3, it is invalid.

(2) Notwithstanding sub-paragraph (1), where—

- (a) a demand notice is invalid because it does not comply with paragraph 3(1);
- (b) the failure so to comply was due to a mistake; and
- (c) the amounts required to be paid under the notice were demanded in accordance with paragraph 3(1),

the requirement to pay those amounts shall apply as if the notice were valid.

(3) Where a requirement to pay an amount under an invalid notice subsists by virtue of sub-paragraph (2), the billing body shall as soon as practicable after the mistake is discovered issue to the person who is liable to pay the BID levy an amended notice under paragraph 3(1).

### **Payment under demand notices**

5. (1) If a demand notice is served before or during the relevant period and, on the day on which the notice is served, it appears to the billing body that the person falls within the description as mentioned in paragraph 2(7) as regards the relevant property to which the notice relates, the notice shall require payment of an amount equal to the billing body's estimate of the amount payable for the period.

(2) In making an estimate under sub-paragraph (1), the billing body shall assume, as respects a period which falls after the issue of the notice, that the person will continue to fall within the description as mentioned in paragraph 2(7).

(3) If a demand notice is served during the relevant period but sub-paragraph (1) does not apply, the notice shall require payment of the amount payable for the period up to the day on which the person last fell within the description as mentioned in paragraph 2(7), as regards the relevant property concerned.

(4) If, after a notice is served to which sub-paragraph (3) applies, the person again falls within the description of the person as mentioned in paragraph 2(7) in the relevant period, as regards the relevant property concerned, a further notice shall be served on that person requiring payment of the amount payable in relation to the relevant property for the period beginning with the day on which the person again falls within the description.

(5) Where a further notice is served under sub-paragraph (4), paragraphs 2(6) and (7), 5, 6 and 7 shall apply to the further notice with respect to the period referred to in sub-paragraph (4) as if it were a demand notice, and the person had not previously fallen within the description of person to be liable for the BID levy specified in the BID arrangements.

(6) If a demand notice is served after the end of the relevant period, it shall require payment of the amount payable for the period.

### **Payments under demand notices: further provision**

6. (1) Unless an agreement under sub-paragraph (3) in relation to the relevant period has been reached before the demand notice is served, a notice to which paragraph 5(1), (3) or (5) applies shall require the amount payable or the estimate of the amount payable to be paid on expiry of such period (being not less than 14 days) after the day of service of the notice as is specified in the notice.

(2) If an agreement under sub-paragraph (3) in relation to the relevant period has been reached before the demand notice is served, a notice to which paragraph 5(1), (3) or (5) applies shall require the amount payable or the estimate of the amount payable to be paid in accordance with that agreement.

(3) A billing body and a person who is liable for the BID levy may agree that the amount payable or the estimate of the amount payable under a notice to which paragraph 5(1), (3) or (5) applies should be paid in such manner as is provided by the agreement.

(4) Notwithstanding anything in the preceding provisions of this paragraph, such an agreement may be entered into either before or after the demand notice concerned is served, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in paragraph 5(1) turning out to be wrong; and if it is entered into after the demand notice has been served, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid before it was entered into.

(5) No payment in respect of the amount payable by a person who is liable for the BID levy in relation to a relevant property for any chargeable period need be made unless a notice served under this Schedule requires it.

(6) In calculating and collecting an amount of BID levy which is payable where the amount would but for this sub-paragraph include an amount which—

- (a) would not be expressed as a whole number of pounds it shall be so expressed by the rounding down of any fraction of a pound less than one half and the rounding up of any other fraction of a pound; or
- (b) is not a whole penny it shall be rounded to the nearest penny and 0.5 of a penny shall be rounded up.

#### **Demand notices: final adjustment**

7. (1) This paragraph applies where—

- (a) a notice has been served by a billing body under this Schedule requiring payment to be made by a person who is liable for the BID levy in respect of the amount payable in relation to a relevant property for a chargeable period or part of a chargeable period;
- (b) the payment required to be made is found to be in excess of or less than the amount payable in relation to the relevant property for the period or the part thereof; and
- (c) provision for adjusting the amounts required under the notice and (as appropriate) for the making of additional payments, or the repaying or crediting of any amount overpaid, is not made by any other provision of this Schedule or of any agreement entered into under paragraph 6(3).

(2) The billing body shall as soon as practicable after the expiry of the period or the part of a period serve a further notice on the person who is liable for the BID levy stating the amount payable for the period or part in relation to the relevant property, and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in sub-paragraph (1)(a).

(3) If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in sub-paragraph (1)(a), then the amount of the difference for which such other provision as mentioned in sub-paragraph (1)(c) is not made shall be due from the person who is liable to pay the BID levy, to the billing body on the expiry of such period (being not less than 14 days) after the day of service of the notice as is specified in it.

(4) If there has been an overpayment in respect of any liability for the BID levy under this Schedule, the amount overpaid for which such other provision as is mentioned in sub-paragraph (1)(c) is not made—

- (a) shall be repaid if the person who made the overpayment so requires; or
- (b) in any other case shall (as the billing body determines) either be repaid or be credited against any subsequent liability of the person in respect of the BID levy.

#### **Crown application**

8. The provisions of this Schedule, with the exception of paragraph 10, apply to the Crown as they apply to other persons.

### **Appeals against the BID levy**

9. (1) In respect of each BID levy imposed in respect of a business improvement district in the area of a district council, that district council shall fix a date on or before which any person may lodge, with the officer of the council designated for the purpose, an appeal against the BID levy claimed from that person on the ground that the BID levy is being improperly charged, and another date on or before which any appeal shall be heard by the district council or a committee thereof.

(2) A demand notice shall contain a notice of the date by which appeals may be lodged and state the name or designation and the address of the officer with whom appeals may be lodged, and if the date for the hearing of appeals is not notified in the demand notice, notice in writing thereof shall be given on behalf of the council to the persons appealing.

(3) Every district council may if they think fit make rules with respect to the lodging and hearing of appeals under this paragraph and such rules must not be inconsistent with the provisions of the 2013 Act.

(4) In relation to joint arrangements, a person lodging an appeal in terms of this paragraph shall lodge the appeal with one of the district councils making the joint arrangements, and in that circumstance, the district council with which the appeal is lodged shall arrange and hear the appeal in accordance with the requirements in sub-paragraphs (1) and (2).

### **Recovery of BID levy**

10. The district council may require the billing body to recover any amount of unpaid BID levy, and the district council may recover this amount as a civil debt due to it.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision in relation to business improvement districts. Business improvement districts are provided for in the Business Improvement Districts Act (Northern Ireland) 2013 (“the 2013 Act”) as areas within which projects specified in the BID arrangements are to be carried out for the benefit of that district or those who live, work or carry on any activity in the district. Those projects are to be financed (in whole or in part) by a BID levy imposed on eligible non-domestic ratepayers, or a class of such ratepayers in the district. A business improvement district may only be established where those entitled to vote approve the BID proposals, which on approval become BID arrangements.

Regulation 2 specifies the persons who may draw up BID proposals and regulations 3 and 4 specify the procedures to be followed in connection with drawing up of BID proposals. Schedule 1 specifies the matters to be included in BID proposals.

Regulation 5 provides for the district council to hold a BID ballot on receipt of BID proposals. Regulation 6 provides that the district council shall appoint the ballot holder for any ballot in respect of business improvement districts required under the 2013 Act or these Regulations. Regulation 7 and Schedule 2 make provision for the arrangements for holding a ballot and the conduct of a ballot.

Regulation 8 confers a power on the Department for Social Development (“the Department”) to declare a ballot void in cases of material irregularity, and procedures connected with that.



Regulation 9 enables a district council to recover the costs of a BID ballot or a renewal ballot from the BID proposer or BID body in the prescribed circumstances.

Regulation 10 makes provision in relation to appeals against the exercise of the veto.

Regulation 11 and Schedule 3 make further provision in relation to the BID Revenue Account.

Regulation 12 provides that the district council may appoint a billing body to administer, collect and recover the BID levy in accordance with Schedule 4. Where it does not, the district council is to carry out those functions. Schedule 4 makes provision with respect to the imposition, administration, collection, recovery and application of the BID levy.

Regulation 13 applies where two or more district councils are enabled to make joint BID arrangements. It provides that such district councils shall appoint a single billing body in respect of the joint arrangements which may be one of them, another district council or another person. It also deals with how references to district councils in certain other parts of these Regulations are to be read when there is a joint BID arrangement.

Regulations 14 and 15 provide for the alteration of BID arrangements with or without an alteration ballot, and Regulation 16 provides the circumstances in which BID arrangements may be terminated.

Regulation 17 provides for the supply of information to the ballot holder for the purposes of carrying out that person's functions under the Regulations.

Regulation 18 provides for electronic communication of requests, applications and notices. This provision does not apply to notices under Schedule 4 because that Schedule makes specific provisions for electronic communication of demand notices etc.