

**2007 No. 202**

**LOCAL GOVERNMENT**

**The Business Improvement Districts (Scotland)  
Regulations 2007**

<i>Made</i> - - - -	<i>6th March 2007</i>
<i>Laid before the Scottish Parliament</i>	<i>8th March 2007</i>
<i>Coming into force</i> - -	<i>1st April 2007</i>

The Scottish Ministers, in exercise of the powers conferred by sections 37(4), 38(2) and (3), 42(2) and (7), 43(2), 45(4) and (5), 46 and 58 of the Planning etc. (Scotland) Act 2006(a) and of all other powers enabling them in that behalf hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Business Improvement Districts (Scotland) Regulations 2007 and shall come into force on 1st April 2007.

(2) In these Regulations—

“the 2006 Act” means the Planning etc. (Scotland) Act 2006;

“alteration ballot” has the meaning given in regulation 18;

“alteration proposals” means proposals in relation to the alteration of BID arrangements pursuant to regulation 18;

“ballot holder” has the meaning given in regulation 7;

“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 ballot” means a ballot under section 38(1) of the 2006 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 39(3) of the 2006 Act;

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

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

“commencement date”, subject to regulation 11(12), means the day, pursuant to section 44(3) of the 2006 Act, the BID arrangements are to come into force;

“data form” means information which is in a form which is capable of being processed by means of equipment operating automatically in response to instructions given for that purpose;

“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;

“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 a telecommunication system (within the meaning of the Telecommunications Act 1984(a)); or

(b) by other means but while in electronic form;

“eligible person” means a person as described in section 39(5) of the 2006 Act;

“eligible ratepayer” means a person as described in section 39(4) of the 2006 Act;

“local authority” means the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(b) for the geographical area of the business improvement district;

“non-domestic rate” has the same meaning as provided for in section 39(12) of the 2006 Act for the purposes of that section;

“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 11(10);

“relevant property” has the same meaning as provided for in section 39(12) of the 2006 Act for the purposes of that section;

“renewal ballot” means a ballot under section 45(2) of the 2006 Act;

“renewal proposals” means proposals in relation to the renewal of the BID arrangements under section 45(2) of the 2006 Act;

“veto” means a veto by the local authority pursuant to section 42 of the 2006 Act;

“veto notice” means a notice given by a local authority pursuant to section 42(2) of the 2006 Act; and

“working day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or any day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(c).

(3) Words and expressions used in these regulations have the same meaning as they have in the 2006 Act.

### **Obtaining information from a local authority for the purpose of developing BID proposals**

2.—(1) On receiving a request (made in accordance with paragraph (2)) from any person who is developing BID proposals, the local authority must–

(a) prepare a document showing–

(i) (as far as the local authority is able to ascertain from its non-domestic rates billing records at that time) the name of each non-domestic ratepayer and the address and rateable value of each relevant property which is occupied, or (if unoccupied) owned, by that person in the business improvement district; and

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(a) 1984, c.12.

(b) 1994, c.39.

(c) 1971 c.80.

- (ii) details of the existing and (so far as may be disclosed) planned services provided by the local authority, together with details of such existing and (so far as may be disclosed) planned services provided by other persons with public functions, as the local authority determines are pertinent to the BID proposals;
  - (b) supply in data form a copy of the information in the document to the person developing the BID proposals.
- (2) A request for information under paragraph (1) shall—
- (a) be made in writing to the local authority;
  - (b) provide a summary of the nature of the BID proposals to be developed;
  - (c) describe the geographical extent of the business improvement district; and
  - (d) confirm that the person making the request intends to make use of the information requested only for the purpose of developing the BID proposal described in the request;
  - (e) be accompanied by the fee (if any) imposed by the local authority under paragraph (4).
- (3) No person may—
- (a) disclose any information supplied to that person under paragraph (1); or
  - (b) make use of any such information,

otherwise than for the purpose of developing the BID proposal described in the request.

(4) The local authority may charge a fee in respect of dealing with a request and supplying the information under this regulation payable by the person to whom the information is to be supplied.

(5) The fee charged under paragraph (4) shall not be unreasonable having regard to the costs incurred or likely to be incurred by the local authority in dealing with requests and supplying information under this regulation.

### **BID proposer**

3. BID proposals may be drawn up by—
- (a) the local authority; or
  - (b) any person who, at the date they send BID proposals to the local authority 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;
    - (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 unincorporate) 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**

4. A BID proposer shall, at least 98 days before sending the notice required under regulation 5(2)(a)(ii), notify the local authority, the billing body and the Scottish Ministers in writing of the proposer's intention to ask the local authority to put the BID proposals to a ballot.

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

5.—(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 BID 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 local authority and the billing body—
  - (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 periodically providing the local authority and billing body with information on the finances of the BID body; and
    - (dd) the names and addresses of each eligible person entitled to vote and the description of each relevant property for which such persons have the interest as eligible person (if the BID proposals provide that eligible persons are entitled to vote on the proposals);
  - (ii) a notice in writing requesting the local authority 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 local authority and the billing body 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 12.

(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 local authority 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 authority (whether or not the authority is under a statutory duty to prepare such document) the authority 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**

6.—(1) Where the local authority—

- (a) subject to paragraph (2), receives a notice pursuant to regulation 5(2)(a)(ii); or
- (b) receives a notification from the Scottish Ministers under regulation 11(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; and

- (ii) provide the ballot holder with the names and addresses of each eligible person entitled to vote and the description of each relevant property for which such persons have the interest as eligible person (if the BID proposals provide that eligible persons are entitled to vote on the proposals).

(2) Where the local authority receives a notice pursuant to regulation 5(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**

7.—(1) The person who holds a BID ballot, renewal ballot, alteration ballot or re-ballot (“the ballot holder”) shall be the person the local authority has appointed under section 41 of the Representation of the People Act 1983(a) as the returning officer for elections to that authority, except as provided for in paragraph (2).

(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**

8. On receipt of an instruction under regulation 6, 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.

### **Entitlement to vote – joint voting**

9.—(1) Where, in respect of a relevant property, more than one person comprises the eligible ratepayer, the person entitled to vote in respect of that property shall be such persons jointly.

(2) Where, in respect of a relevant property, more than one person comprises the eligible person, the person entitled to vote in respect of that property shall be such persons jointly.

### **Allocation of voting**

10.—(1) This Regulation provides for the allocation of the votes which can be cast, to those persons entitled to vote for the purposes of the first condition to be satisfied for approval by a BID ballot in terms of section 40(3) of the 2006 Act.

(2) The number of votes cast in favour of the BID proposals shall require to exceed the number of votes cast against those proposals, such that X exceeds Y.

(3) For the purposes of this Regulation, “X” is the aggregate of—

- (a) the number of relevant properties in respect of which persons voting in the ballot as eligible ratepayers have voted in favour of the BID proposals;
- (b) the number of persons voting in the ballot as eligible persons who have voted in favour of the BID proposals; and
- (c) the number of persons who—
  - (i) have voted in the ballot as eligible ratepayers;
  - (ii) would, had section 39(5)(b) of the 2006 Act been left out of account, have been entitled to vote in the ballot as an eligible person under that subsection in respect of at least one property; and
  - (iii) have voted in favour of the BID proposals.

(4) For the purposes of this Regulation, “Y” is the aggregate of—

- (a) the number of relevant properties in respect of which persons voting in the ballot as eligible ratepayers have voted against the BID proposals;

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(a) 1983 c.2.

- (b) the number of persons voting in the ballot as eligible persons who have voted against the BID proposals; and
- (c) the number of persons who—
  - (i) have voted in the ballot as eligible ratepayers;
  - (ii) would, had section 39(5)(b) of the 2006 Act been left out of account, have been entitled to vote in the ballot as an eligible person under that subsection in respect of at least one property; and
  - (iii) have voted against the BID proposals.

**Declaring a ballot void**

**11.—**(1) Subject to paragraph (3), the Scottish Ministers may declare void a BID ballot, renewal ballot, alteration ballot or re-ballot if it appears to them 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 Scottish Ministers, 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 Scottish Ministers, 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 Scottish Ministers, 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 Scottish Ministers, there has been fraudulent activity in the conduct of the ballot;
- (e) that, in the opinion of the Scottish Ministers, 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 Scottish Ministers, there has been significant change in local circumstances; or
- (g) that, in the opinion of the Scottish Ministers, 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 Scottish Ministers to exercise their 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;
- (c) the billing body; or
- (d) the local authority.

(5) On receipt of a request under paragraph (3), the Scottish Ministers shall notify the complainant, the billing body, the local authority, and the BID proposer or the BID body, in writing that they have received the request, and send a copy to each of them.

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

(7) Within 28 days of the date of the notice given by the Scottish Ministers under paragraph (5), the complainant, the billing body, the local authority, and the BID proposer or the BID body, may serve on the Scottish Ministers written representations in respect of the request.

(8) A copy of the representations made by one party shall be sent by the Scottish Ministers 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 Scottish Ministers written representations in reply and the Scottish Ministers shall send a copy of any such representations to the other parties.

(10) The Scottish Ministers shall notify the complainant, the billing body, the local authority, 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 billing body and the local authority 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 Scottish Ministers declare void a BID ballot, a renewal ballot, an alteration ballot or a re-ballot in relation to such a ballot and they are of the opinion that the material irregularity was caused by the actions or omissions of the BID proposer or BID body, they shall issue a notice in writing to that effect with their decision notice, and they shall include in the notice an explanation of the effect of this regulation.

(12) Where the Scottish Ministers declare void a BID ballot, a renewal ballot, an 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 local authority 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**

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

(2) Where paragraph (1) applies, the ballot holder may require the BID proposer or the BID body to pay the costs of arranging and holding the ballot, and the ballot holder may recover this amount as a civil debt due to it.

### **Obtaining information for the purpose of canvassing**

13.—(1) As soon as practicable after the local authority instructs the ballot holder to hold a ballot (under regulation 6(1)), the local authority or the billing body (as the case may be) shall—

- (a) prepare a document showing—
  - (i) (as far as the local authority or the billing body is able to ascertain from its non-domestic rates billing records at that time) the name of each non-domestic ratepayer and the address and rateable value of each relevant property which is occupied, or (if unoccupied) owned, by them in the geographical area to which any BID proposals, alteration proposals or renewal proposals, as the case may be, relate; and
  - (ii) (as far as the local authority or billing body is able to ascertain from its records at that time and from the information provided by the BID proposers), the names and addresses of the eligible persons eligible to vote to approve the BID proposals;



- (b) provide a copy of the document referred to in paragraph (1)(a) to the ballot holder as soon after instructing as practicable; and
- (c) make available for inspection by any person a copy of the information in the document referred to in paragraph (1)(a) at its principal office during normal working hours.

(2) On receiving a request (made in accordance with paragraph (3)) from—

- (a) the BID proposer or BID body;
- (b) any person who, or any group of persons which, represents 5 per cent or more of the persons who are to be liable for any proposed BID levy,

the local authority or the billing body shall supply a copy of the information in the document it is required to prepare under paragraph (1) to the person or group of persons concerned in data form.

(3) A request for information under paragraph (2) shall—

- (a) be made in writing to the billing body or the local authority;
- (b) identify the BID ballot, alteration ballot, renewal ballot or re-ballot in relation to which the request is made;
- (c) confirm that the person or group of persons making the request intends to make use of the information requested only for the purpose of canvassing persons entitled to vote in the BID ballot, alteration ballot, renewal ballot or re-ballot identified in the request; and
- (d) be accompanied by the fee (if any) imposed by the billing body or the local authority under paragraph (5).

(4) No person may—

- (a) disclose to any person any information supplied to it under paragraph (2);
- (b) make use of any such information,

otherwise than for the purpose of canvassing persons entitled to vote in the BID ballot, alteration ballot, renewal ballot or re-ballot identified in the request.

(5) The billing body or the local authority may charge a fee in respect of dealing with a request and supplying the information under this regulation on the person to whom the information is to be supplied.

(6) The fee charged under paragraph (5) is reasonable having regard to the costs incurred or likely to be incurred by the billing body or the local authority (as the case may be) in dealing with requests and supplying information under this regulation.

### **Veto of BID proposals**

**14.**—(1) For the purposes of section 42(2) of the 2006 Act, the prescribed period is 70 days prior to the day of the ballot.

(2) For the purposes of section 42(4) of the 2006 Act, the prescribed matters to which the local authority shall have regard in deciding whether to exercise its veto are—

- (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 this information is available;
- (b) the nature and extent of the conflicts mentioned in section 42(4) of the 2006 Act;
- (c) in relation to section 42(4)(c) of the 2006 Act, the structure of the proposed BID levy and how the financial burden of the business improvement district is to be distributed amongst ratepayers and the other eligible persons in the geographical area of the business improvement district;
- (d) in relation to section 42(4)(c) of the 2006 Act, how the financial burden of the business improvement district may have been disproportionately distributed among ratepayers and the other eligible persons 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 authority before submitting the BID proposals to the authority under regulation 5; and



- (f) the cost incurred by any person in developing the BID proposals and canvassing in relation to the BID proposals.

### **Appeal against veto**

**15.—**(1) A person (“the appellant”) who wishes to appeal against a veto under section 43(1) of the 2006 Act shall serve on the Scottish Ministers, within 28 days of the veto notice being given by the local authority under section 42(2) of the 2006 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 Scottish Ministers shall—

- (a) notify the appellant and the local authority in writing that they have received the appeal notice; and
- (b) send a copy of the appeal notice to the local authority and the billing body.

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

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

(5) Within 28 days of the date of the notice given by the Scottish Ministers under paragraph (2), the appellant and the local authority may serve on the Scottish Ministers written representations in respect of the appeal.

(6) A copy of the representations made by one party to the appeal shall be sent by the Scottish Ministers 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 Scottish Ministers further written representations in reply, the Scottish Ministers 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 Scottish Ministers 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 mentioned in section 42(4) of the 2006 Act;
- (c) in relation to section 42(4)(c) of the 2006 Act, the structure of the proposed BID levy and how the financial burden of the business improvement district is to be distributed among ratepayers and the other eligible persons in the geographical area of the business improvement district;
- (d) in relation to section 42(4)(c) of the 2006 Act, how the financial burden of the business improvement district may have been disproportionately distributed among ratepayers and the other eligible persons as a result of the selection of the geographic area of the business improvement district;
- (e) the extent to which the BID proposer discussed the BID proposals with the local authority before submitting the BID proposals to the authority under regulation 5;
- (f) whether, after the date on which the notice pursuant to regulation 5(2)(a)(ii) is received, the local authority changed any policy formally adopted by and contained in a document published by the authority 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 Scottish Ministers shall send notice of their decision in writing to the appellant and the local authority.

## **BID Revenue Account**

16.—(1) Schedule 3 shall have effect with respect to the keeping of the BID Revenue Account.

(2) Where the local authority 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 19 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 billing body 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;
- (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
- (c) make arrangements for the amount so calculated to be credited against any liability by way of non-domestic rates of each previous levypayer or, where there is no liability for that person by way of non-domestic rates, for the amount to be refunded to that person.

(5) Where paragraph (3) does not apply, the local authority shall carry the credit balance in the BID Revenue account to the credit of its general fund.

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

17.—(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 local authority.

(5) Where the BID arrangements are altered pursuant to this regulation, the local authority 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.

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

18.—(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 (and, if applicable, the other eligible persons entitled to vote) 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 40(3) of the 2006 Act; and
- (b) A exceeds B in the same manner as calculated for the original arrangements under section 40(4) and (7) to (10) of the 2006 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 41 of the 2006 Act.

(3) Where BID arrangements are altered pursuant to this regulation, the local authority shall ensure the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are to come into force.

### **Termination of BID arrangements**

19.—(1) The local authority may terminate BID arrangements where—

- (a) in the opinion of the authority, the BID body will have insufficient finances to meet its liabilities for the current chargeable period and the authority 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 authority is unable, due to any cause beyond the control of the authority, to provide works or services which are necessary for the BID arrangements to continue and the authority 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 authority 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 local authority and conducted a consultation with such representatives of the business community for the geographical area of the business improvement district as the authority considers appropriate.

(4) The local authority 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 local authority 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 local authority 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 16(4) is to be made.

(7) In the event of a disagreement between the local authority 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 Scottish Ministers for determination as to whether those circumstances have occurred.

**Information**

20. The local authority and the billing body shall supply to the ballot holder any information they require for the purposes of carrying out their functions under these Regulations.

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

21. A requirement in these Regulations that any request, application or notice should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it is—

- (a) is transmitted by electronic communication;
- (b) is received in legible form; and
- (c) is capable of being used for subsequent reference.

St Andrew's House  
Edinburgh  
6th March 2007

*TOM McCABE*  
A member of the Scottish Executive

## 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 local authority, a company under the control of an authority, a limited company or a partnership);
- (b) a statement of the existing baseline services provided by the local authority 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 providing details of any additional financial contributions or additional actions for the purpose of enabling the projects specified in the BID proposals to be carried out, by the local authority or any other person authorised or required to do so by the statement;
- (e) 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;
- (f) a statement of the duration of the BID arrangements; and
- (g) 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)(g), the BID proposer shall specify how many days after the notice of the result is published (pursuant to paragraph 17 of Schedule 2) it proposes 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).

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 provided by the local authority or other person with public functions;
- (c) the geographical area (including a map showing that area) in which the proposed BID arrangements are to have effect;
- (d) 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
- (e) 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)(e), 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.

##### **Timetable**

<i>Proceeding</i>	<i>Time</i>
The BID proposer gives notice to the local authority, billing body and the Scottish Ministers of intention to put the proposals to the ballot	At least 98 days before the day of the ballot in accordance with regulation 4
The local authority instructs the ballot holder	In accordance with regulation 6
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

##### *Day of the ballot*

- 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) no earlier than 56 days, and no later than 90 days, from 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 billing body, the local authority, 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.

(4) A re-ballot shall not take place until at least 1 year after the date of the original 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 Scottish Ministers 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 shall have the votes allocated which can be cast for the purposes of the first condition to be satisfied for approval by a BID ballot, in accordance with regulation 10.

(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 valuation roll 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 valuation roll 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 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 that obtained at 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 in respect of 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.

(5) 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, or wording substantially to the like effect—

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*]

If you are casting your vote as the owner or tenant of the property, please tick this box

Please bear in mind only one numerical vote is granted to eligible owners or tenants for all the properties they own or lease in the area. The rateable value vote however is specific to each property.

Name of eligible owner or tenant (in block capitals).....

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, please state the position held by the person signing)

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]

(6) Each ballot paper for a renewal ballot, or re-ballot in relation to a renewal ballot, shall include the following wording–

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	
-----	--	----	--

This vote is in respect of –

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

If you are casting your vote as the owner or tenant of the property, please tick this box

Please bear in mind only one numerical vote is granted to eligible owners or tenants for all the properties they own or lease in the area. The rateable value vote however is specific to each property.

Name of eligible owner or tenant (in block capitals).....

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, please state the position held by the person signing)

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]

(7) 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, or wording substantially to the like effect–

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	
-----	--	----	--

This vote is in respect of –

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

If you are casting your vote as the owner or tenant of the property, please tick this box

Please bear in mind only one numerical vote is granted to eligible owners or tenants for all the properties they own or lease in the area. The rateable value vote however is specific to each property.

Name of eligible owner or tenant (in block capitals).....

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, please state the position held by the person signing)

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, 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—

- (a) 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 that ratepayer is entitled to vote; and
- (b) eligible person (not being a ratepayer) entitled to vote in the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be.

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

- (b) the address of the relevant property or the principal place of business within Scotland of the person entitled to vote; or
- (c) 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)(a);
- (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 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) If on receipt of the spoilt ballot paper later than the date that is 3 working days prior to the day of the ballot, the ballot holder is satisfied as to the voter’s identity, the ballot holder he shall issue another ballot paper.

(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 by 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 clerks may be present at the receipt of the ballot papers, unless permitted by the ballot holder to attend.

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(a) 2000 c.26.

### *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.

(2) No person other than the ballot holder and 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 total number of votes cast against the question asked in the ballot;
- (e) 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; and
- (f) the aggregate rateable value of each relevant property in respect of which a person voting in the ballot has voted against 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 as soon as practicable and 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 this 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.



THE KEEPING OF THE BID REVENUE ACCOUNT

PART 1

Credits to the Account

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

*Item 1: BID revenues*

BID levy sums paid for the year.

*Item 2: Income from BID services and facilities*

Sums received by the authority for the year in respect of services or facilities provided by it (excluding contributions made by it to the business improvement district under section 35 of the 2006 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 authority during the year; and
- (b) any amount by which, in the opinion of the authority, 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 local authority 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 authority for the year in respect of collecting the BID levy.

*Item 2: BID expenditure*

The expenditure of the authority 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 authority, 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.

## 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 Part 9 of the Planning etc. (Scotland) Act 2006 (“the 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 persons, or a class of persons, depending on the BID proposals. Such persons may be either non-domestic ratepayers in the district, or such ratepayers and other eligible owners or tenants. 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 provides for the local authority to supply information from its non-domestic rates records to persons developing BID proposals. Authorities may charge for supply of this information.

Regulation 3 specifies the persons who may draw up BID proposals and regulation 4 provides for the proposers notice of intention to hold a ballot. Regulations 5 and 6 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 7 provides that the returning officer for local elections in the local authority area is to be the ballot holder for any ballot in respect of business improvement districts required under the Act or these Regulations. Regulation 8 and Schedule 2 make provision for the arrangements for holding a ballot and the conduct of a ballot. Regulation 9 provides for joint voting where there is more than one eligible ratepayer, or other person eligible to vote, in respect of a property entered on the valuation roll.

Regulation 10 specifies how votes are allocated to be cast, to those persons entitled to vote in the first part of a ballot for the approval of BID proposals.

Regulation 11 confers a power on the Scottish Ministers to declare a ballot void in cases of material irregularity, and procedures connected with that.

Regulation 12 enables a local authority, or a billing body appointed by an authority, to recover the costs of a BID ballot or a renewal ballot from the BID proposer or BID body in the prescribed circumstances.

Regulation 13 provides for the local authority or the billing body to supply information from its non-domestic rates records for the purpose of canvassing in relation to a ballot. They may charge for supply of this information. Provision is also made for inspection of the information to any person and for the restriction of the use of the information.

Regulation 14 prescribes the matters a local authority must have regard to in deciding to veto BID proposals, and the period within which this is to be done. Regulation 15 makes provision in relation to appeals against the exercise of the veto.

Regulations 16 and Schedule 3 make further provision in relation to the BID Revenue Account.

Provision is also made for the alteration of BID arrangements with or without an alteration ballot (regulations 17 and 18), and the circumstances in which BID arrangements may be terminated (regulation 19).

Regulation 20 provides for the supply of information by the local authority and the billing body to the ballot holder for the purposes of carrying out that person’s functions under the Regulations.

Regulation 21 provides for electronic communication of requests, applications and notices.





**2007 No. 202**

**LOCAL GOVERNMENT**

**The Business Improvement Districts (Scotland)  
Regulations 2007**

**£4.50**

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Printed in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland