
STATUTORY INSTRUMENTS

2004 No. 2443

**The Business Improvement Districts
(England) Regulations 2004**

Declaring a ballot void

9.—(1) Subject to paragraph (3), the Secretary of State may declare void a BID ballot, renewal ballot, alteration ballot or re-ballot if it appears to him 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 Secretary of State’s opinion, 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 Secretary of State’s opinion, 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; or
- (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 Secretary of State’s opinion, 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.

(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 Secretary of State to exercise his 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 relevant billing authority.

(5) On receipt of a request under paragraph (3) the Secretary of State shall notify the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, in writing that he has received the request and send a copy to each of them.

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

(7) Within 28 days of the date of the notice given by the Secretary of State under paragraph (5) the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, may serve on the Secretary of State written representations in respect of the request.

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

(10) The Secretary of State shall notify the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, in writing of his decision and where he declares void a BID ballot, renewal ballot, alteration ballot or re-ballot, he shall notify the relevant billing 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 Secretary of State declares void a BID ballot, a renewal ballot, an alteration ballot or a re-ballot in relation to such a ballot and he is of the opinion that the material irregularity was caused by the actions or omissions of the BID proposer or BID body, as the case may be, he shall issue a notice in writing to that effect with his decision notice and, he shall include in the notice an explanation of the effect of regulation 10.

(12) Where the Secretary of State declares 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 relevant billing authority determines.

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