

**EXPLANATORY MEMORANDUM TO  
THE PLANNING ETC. (SCOTLAND) ACT 2006 (BUSINESS IMPROVEMENT  
DISTRICTS LEVY) ORDER 2007**

**2007 No. 772 (S.1)**

1. This explanatory memorandum has been prepared by the Scotland Office and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 This Order makes provision consequential on the Planning etc. (Scotland) Act 2006 (“the 2006 Act”). Part 9 of the 2006 Act provides for Business Improvement Districts (BIDs) in Scotland.

2.2 BIDs are a partnership between local businesses, engaging with the local authority, with the aim of improving the business environment and promoting economic growth. A BID can be established wherever additional services to those which the Local Authority provides are desired by the local business community. Before agreeing to fund the additional investment the businesses themselves will decide how their money will be spent and how much they are prepared to pay. Each business liable to contribute to the BID will be able to vote on whether or not the BID proposals go ahead. The approved BID arrangements would be funded by a levy payable by local Non Domestic Ratepayers and, where appropriate, owners or tenants to fund improvements in the area such as CCTV.

2.3 This Order makes provision in statute for the BID levy as the imposition of levies and rates, with the exception of those for local authority expenditure, are a matter reserved to Westminster under Schedule 5 to the Scotland Act 1998. The Order sets out how the BID levy will operate, including who is liable for the levy, which, dependant upon the approved BIDs proposals, will be Non Domestic ratepayers, and possibly, tenants and owners.

2.4 The BID levy will be paid directly to a Billing Body (in many cases the Local Authority) which will in turn deposit the revenue into the BID Revenue Account.

2.5 Article 6 of this Order allows for Scottish Ministers to issue a notice to a BID Body to vary the apportionment of the levy between Non Domestic Ratepayers and owners. This provision provides a mechanism whereby the Scottish Ministers can, under exceptional circumstances, intervene should apportionment arrangements fail to work effectively in a BID.

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

3.1 This Order is to be made in exercise of the powers conferred by section 104, 112(1) and 113 of the Scotland Act 1998 (“the 1998 Act”). The Order is, by virtue of section 115 (1) of, and paragraphs 1, 2 and 3 of Schedule 7 to, that Act, subject to negative resolution in both Houses of the UK Parliament. Section 104 of the 1998 Act provides for subordinate legislation to be made in the UK Parliament, which contains provisions that are necessary or expedient in consequence of any Act of the Scottish Parliament, in this case the 2006 Act.

3.2 A section 104 Order under the 1998 Act is expedient in consequence of the 2006 Act as the Scottish Parliament does not have the legislative competence under the 1998 Act to make provision in statute for the levy.

3.3 Section 35 of the Planning etc (Scotland) Act 2006, which this Order is made in consequence of, allows for *additional* voluntary payments to be made by the local authority or any other persons to the BID to fund initiatives. These payments are distinct from the compulsory levy and are additional contributions to the BID fund; as opposed to referring to voluntary contributions made by those who are also liable to pay the levy.

### **4. Legislative Background**

4.1 The Local Government Act 2003 introduced arrangements in England and Wales for BIDs. The Scottish Primary legislation and secondary legislation is largely based on the legislation approved in England and Wales in 2003 and 2004.

4.2 The Planning etc (Scotland) Act 2006 (“the 2006 Act”), an Act of the Scottish Parliament, received Royal Assent on 20<sup>th</sup> December 2006. The provisions are scheduled to take effect on 1 April 2007. The 2006 Act introduced provisions to implement Business Improvement Districts in Scotland, as set out in *A Partnership for a Better Scotland*. Those provisions relate only to those elements of the BIDs proposals that are devolved to the Scottish Parliament.

4.3 Schedule 5, Part II, Section A1 of the Scotland Act 1998 stipulates that taxes are reserved with the exception of those for local taxes to fund local authority expenditure (the BID levy is not considered to fall within that exception as it is a local levy for BID expenditure and not local authority expenditure). This Order will make provisions for the BID levy in statute, as this is outwith the legislative competence of the Scottish parliament.

### **5. Extent**

5.1 This instrument applies to Scotland only.

### **6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 The Government agrees with the Scottish Executive that BIDs can be a powerful tool in the drive to regenerate Scottish town centres. The Scottish Executive provided £0.5 million to take forward six Pilot Bids in Scotland during 2006-07, with further funding of up to the same level in 2007-08. The core aim of the BIDs policy is to allow businesses to work together to invest in the local trading environment.

7.2 Responses to consultations carried out in Scotland showed that there was strong support for owners to be involved in the BIDs, especially given they will also benefit from the initiatives taken forward by a BID.

7.3 The BID Body will consider the anticipated benefits of the BID project to the two categories involved (Occupiers and Owners or Tenants) and place a percentage estimate on that benefit based on anticipated increases in, say, profits or Rateable Value. This apportionment determines the number of votes that will be cast by each eligible person and the share of the levy to be paid. The levy charged is related to a percentage of the Rateable Value of the property.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument. The Scottish Executive has carried out two detailed consultations on both the overall policy and the detail of the secondary legislation. Further to this six BID pilot projects are being run across Scotland, the first of which intends to become fully operation in the summer of 2007.

8.2 The Regulatory Impact Assessment carried out for the Planning Etc Bill by the Scottish Executive included an assessment of the impact BIDs shall have. The RIA concluded that BIDs will benefit businesses by increasing profits and also give local businesses a unified voice, helping to provide an arena for businesses and local authorities to increase their understanding of each others priorities.

## **9. Contact**

9.1 Adam Pile at the Scotland Office (email [Adam.Pile@scotland.gsi.gov.uk](mailto:Adam.Pile@scotland.gsi.gov.uk)) can answer any queries regarding the instrument.

Scotland Office  
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