
WELSH STATUTORY INSTRUMENTS

2005 No. 1312

The Business Improvement Districts (Wales) Regulations 2005

Declaring a ballot void

9.—(1) Subject to paragraph (3), the National Assembly 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 National Assembly’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 National Assembly’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 National Assembly’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 under 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 National Assembly 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 relevant billing authority.

(5) On receipt of a request under paragraph (3) the National Assembly must notify the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, 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 National Assembly may decide those requests together.

(7) Within 28 days of the date of the notice given by the National Assembly 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 National Assembly written representations in respect of the request.

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

(10) The National Assembly must notify the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, of its decision and where it declares void a BID ballot, renewal ballot, alteration ballot or re-ballot, it must 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 National Assembly declares void a BID ballot, a renewal ballot, an 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, as the case may be, it must issue a notice to that effect with its decision notice and it must include in the notice an explanation of the effect of regulation 10.

(12) Where the National Assembly 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) must be no later than a year after the date of the notice of the result is published under paragraph 17 of Schedule 2.