Draft Regulations laid before Parliament under section 150(6) of the Local Government and Housing Act 1989 and sections 54(7) and 55(4) of the Local Government Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

LOCAL GOVERNMENT, ENGLAND

The Business Improvement Districts (England) Regulations 2004

Made - - - -

Coming into force

The First Secretary of State, in exercise of the powers conferred by section 150(1), (2) and (3) of the Local Government and Housing Act 1989(**1**) and sections 47(4), 48(1) and (2), 49(2), 51(2) and (3), 52(2), 54(4) and (5), 55(1) and (2), 56(1) and 123(2) of the Local Government Act 2003(**2**) and having consulted with such representatives of local government as appear to him to be appropriate, hereby makes the following Regulations, a draft of which has been laid before, and approved by a resolution of, each House of Parliament:

Application, citation, commencement and interpretation

1.—(1) These Regulations, which apply in England only, may be cited as the Business Improvement Districts (England) Regulations 2004 and shall come into force on the day after the day on which they are made.

(2) In these Regulations—

"the 1988 Act" means the Local Government Finance Act 1988(**3**);

"the 1989 Regulations" means the Non-Domestic Rating (Collection and Enforcement)(Local Lists) Regulations 1989(**4**) as modified by paragraph 9 of Schedule 4 below;

"the Act" means the Local Government Act 2003;

"alteration ballot" has the meaning given in regulation 17;

"alteration proposals" means proposals in relation to the alteration of BID arrangements pursuant to regulation 17;

(**1**) 1989 c. 42. *See* section 152(5) for the definition of "prescribed".
(**2**) 2003 c. 26. *See* section 59(1) for the definition of "prescribed".
(**3**) 1988 c. 41.
(**4**) S.I. 1989/1058; amendments are made by S.I. 1990/145, 1991/141, 1991/1127, 1992/474, 1992/1512, 1993/774, 1993/894, 1993/1493, 1995/212 and 1998/3089.

"the amount payable" for a chargeable period or part of a chargeable period in relation to a particular person, a relevant billing authority and a hereditament means—

(a) the amount that person is liable to pay to the authority as regards the hereditament in respect of the period or part thereof under section 46 of the Act by virtue of that person falling within the description of persons liable to the BID levy in the BID arrangements; or

(b) where an amount falls to be credited by the authority against that person's liability in respect of the period or part thereof, the amount (if any) by which the amount referred to in sub-paragraph (a) exceeds the amount falling to be so credited;

"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;

"BID ballot" means a ballot under section 49(1) of the Act;

"BID body" means, where a local authority BID body is not responsible for implementing the BID arrangements, the body (whether corporate or not corporate) responsible for the implementation of the arrangements;

"BID proposer" means a person who draws up BID proposals;

"commencement date" subject to regulation 9(12), means the day, pursuant to section 53 of the 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 him;

"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 a telecommunication system (within the meaning of the Telecommunications Act 1984(**5**)); or

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

"hereditament" means anything which is or is treated as being a hereditament by virtue of the provisions of or any provisions made under section 64 of the 1988 Act including any hereditament to which regulation 6 of the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989(**6**) applies but otherwise excluding any hereditament to which regulations made under section 64(3)(b) of the 1988 Act apply;

"liability order" has the meaning given in regulation 10 of the 1989 Regulations;

(**5**) 1984 c. 12.
(**6**) S.I. 1989/1060; relevant amendments are made by S.I. 1993/616.

"local authority BID body" means, where the relevant billing authority or a company under the control of the authority (within the meaning given in section 68 of the Local Government and Housing Act 1989(**7**)) is responsible for implementing the BID arrangements, that person;

"person entitled to vote" has the meaning given in regulation 8;

"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 billing authority" means the billing authority for the geographical area of the BID;

"renewal ballot" means a ballot under section 54(2) of the Act;

"renewal proposals" means proposals in relation to the renewal of the BID arrangements under section 54(2) of the Act;

"veto" means a veto by the relevant billing authority pursuant to section 51(2) of the Act;

"veto notice" means a notice given by a billing authority pursuant to section 51(4) of the 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 England and Wales under the Banking and Financial Dealings Act 1971(**8**).

Obtaining information from billing 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 relevant billing authority shall–

(a) prepare a document showing (as far as the relevant billing 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 hereditament which is occupied, or (if unoccupied) owned, by him in the geographical area of the BID proposals to be developed; and

(b) supply a copy of the information in the document to the person concerned in data form.

(2) A request under paragraph (1) shall—

(a) be made in writing to the relevant billing authority;

(b) 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 made pursuant to paragraph (1);

(c) provide a summary of the nature of the BID proposals to be developed;

(d) provide the description of the geographical area of the BID proposals to be developed; and

(e) be accompanied by the fee (if any) imposed by the relevant billing authority under paragraph (4).

(3) No person may—

(a) disclose to any person any information supplied to it under paragraph (1);

(b) make use of any such information,

otherwise than for the purpose of developing the BID proposal described in the request made pursuant to paragraph (1).

(**7**) 1989 c. 42.
(**8**) 1971 c. 80.

(4) The relevant billing authority may impose a charge 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.

(5) The relevant billing authority shall ensure the amount of a charge imposed under paragraph (4) is reasonable having regard to the costs incurred or likely to be incurred by the authority in dealing with requests and supplying information under this regulation.

BID proposer

3.—(1) The following persons may draw up BID proposals—

(a) any person who, at the date he sends BID proposals to the relevant billing authority under regulation 4(2)(a)—

(i) is a non-domestic ratepayer in relation to a hereditament situated in the area to be comprised in such proposals;

(ii) has an interest in land (situated in the area to be comprised in such proposals) as freeholder, mortgagee or lessee, or directly or indirectly receives rent for the land (whether or not he is a non-domestic ratepayer in relation to that land); or

(iii) is a body (whether corporate or not corporate) one of whose purposes is developing BID proposals; and

(b) the relevant billing authority.

(2) Subject to paragraph (3), a BID proposer shall, at least 84 days before sending the notice required under regulation 4(2)(a)(ii), notify the relevant billing authority and the Secretary of State in writing of the proposer's intention of asking the relevant billing authority to put the BID proposals to a ballot.

(3) Paragraph (2) shall not apply where a BID proposer sends the notice required under regulation 4(2)(a)(ii) to the relevant billing authority before 1st April 2005.

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 paragraphs 1, 2 and 3 of 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 relevant billing authority—

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

(aa) the consultation it has undertaken with those persons who are to be liable for the proposed BID levy;

(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); and

(cc) the financial management arrangements for the BID body, and the arrangements for periodically providing the relevant billing authority with information on the finances of the BID body; and

(ii) a notice in writing requesting the relevant billing 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 relevant billing authority with such information as it shall reasonably require to satisfy itself 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;

(b) a BID body or a local authority BID body, as the case may be, 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 to be liable for the proposed BID levy who requests a copy.

(4) Where the relevant billing 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

5.—(1) Where the relevant billing authority—

(a) subject to paragraph (2), receives a notice pursuant to regulation 4(2)(a)(ii);

(b) in the case where a local authority BID body is responsible for implementing the BID arrangements, decides to seek approval of alteration proposals or renewal proposals, as the case may be; or

(c) receives a notification from the Secretary of State under regulation 9(10) requiring it to arrange a re-ballot;

it shall 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 relevant billing authority 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 4(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 relevant billing authority has appointed under section 35 of the Representation of the People Act 1983(**9**) as the returning officer for elections to that authority.

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

(**9**) 1983 c. 2.