STATUTORY RULES OF NORTHERN IRELAND

2014 No. 143

BUSINESS IMPROVEMENT DISTRICTS

The Business Improvement Districts (General) Regulations (Northern Ireland) 2014

Made - - - -	*20th May 2014*
Coming into operation	*1st July 2014*

The Department for Social Development, in exercise of the powers conferred by sections 2,10,14,15,16,17 and 18 of the Business Improvement Districts Act (Northern Ireland) 2013(**1**), makes the following Regulation:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Business Improvement Districts (General) Regulations (Northern Ireland) 2014 and shall come into operation on the 1st July 2014.

(2) In these Regulations—

"the 2013 Act" means the Business Improvement Districts Act (Northern Ireland) 2013;

"the 2014 (Miscellaneous) Regulations" means the Business Improvement Districts (Miscellaneous) Regulations (Northern Ireland) 2014;

"alteration ballot" has the meaning given in regulation 19;

"alteration proposals" means proposals in relation to the alteration of BID arrangements pursuant to regulation 16;

"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 under Section 1 of the 2013 Act;

(**1**) 2013, c.5 (NI)

"BID ballot" means a ballot under section 5(1) of the 2013 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 6(2) of the 2013 Act;

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

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

"commencement date", subject to regulation 9(12), means the day, pursuant to section 11(3) of the 2013 Act, the BID arrangements are to come into force;

"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;

"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 an electronic communications network (within the meaning of the Electronic Communications Act (Northern Ireland) 2001)(**2**); or

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

"eligible ratepayer" means a person a person as described in section 6(3) of the 2013 Act;

"NAV list" has the same meaning as in the Rates (Northern Ireland) Order 1977(**3**);

"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 property" has the same meaning as provided for in section 6(4) of the 2013 Act for the purposes of that section;

"renewal ballot" means a ballot under section 16(2) of the 2013 Act;

"renewal proposals" means proposals in relation to the renewal of the BID arrangements under section 16(2) of the 2013 Act;

"veto" means a veto by the district council pursuant to section 9 of the 2013 Act; and

"working day" means any day which is not a Saturday, Sunday or a public holiday.

BID proposer

2. BID proposals may be drawn up by–

(a) the district council; or

(b) any person who, at the date they send BID proposals to the district council 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;

(**2**) 2001, c.9 (NI). (as amended by 2003, c.21)
(**3**) 1977 No. 2157 (N.I. 28)

(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 unincorporated) 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

3. A BID proposer shall, at least 98 days before sending the notice required under regulation 5(2)(a)(ii), notify, in writing, the district council and the Department of the proposer's intention to ask the district council to put the BID proposals to a ballot.

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 Schedule 1.

(2) Where a BID proposer decides to seek approval of BID proposals in a 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 Department and the district council–

(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 the periodically providing the district council with information on the finances of the BID body.

(ii) a notice in writing requesting the district council 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 district council 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 10.

(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 district council 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 council (whether or not the council is under a statutory duty to prepare such document) the council 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 district council–

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

(b) receives a notification from the Department under regulation 10(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.

(2) Where the district council 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 5(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 district council has appointed as the returning officer for the purpose of a BID ballot.

(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

7. On receipt of an instruction under regulation 5, 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.

Declaring a ballot void

8.—(1) Subject to paragraph (3), the Department 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 opinion of the Department, 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 Department, 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 Department, 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 Department, there has been fraudulent activity in the conduct of the ballot;

(e) that, in the opinion of the Department, 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 Department, there has been significant change in local circumstances; or

(g) that, in the opinion of the Department, 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 Department 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 district council.

(5) On receipt of a request under paragraph (3), the Department shall notify the complainant, the district council, and the BID proposer or the BID body, 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 Department may decide those requests together.

(7) Within 28 days of the date of the notice given by the Department under paragraph (5), the complainant, the district council, and the BID proposer or the BID body, may serve on the Department written representations in respect of the request.

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

(10) The Department shall notify the complainant, the district council, 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 district council 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 Department declare void a BID ballot, renewal ballot, 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, it shall issue a notice in writing to that effect with its decision notice, and it shall include in the notice an explanation of the effect of this regulation.

(12) Where the Department declares void a BID ballot, renewal ballot, 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