



Planning etc. (Scotland) Act 2006

2006 asp 17

PART 9

BUSINESS IMPROVEMENT DISTRICTS

Procedure

39 Entitlement to vote in ballot

- (1) Entitlement to vote in a ballot held for the purposes of section 38(1) is to be determined in accordance with this section.
- (2) When submitting BID proposals to the local authority, those who have drawn up the proposals are also to submit a statement as to which eligible persons are to be entitled to vote in the ballot.
- (3) The statement—
 - (a) is to specify that the persons entitled to vote are—
 - (i) those who are eligible persons under subsection (4), or
 - (ii) those who are eligible persons under subsections (4) and (5), and
 - (b) may specify that only those who are eligible persons in respect of property of a description set out in the statement are entitled to vote.
- (4) A person is an eligible person under this subsection if on the relevant date that person is subject to the non-domestic rate in respect of relevant property.
- (5) Subject to subsections (6) to (8), a person is an eligible person under this subsection if on the relevant date that person—
 - (a) is an eligible tenant or the owner of relevant property, and
 - (b) is not subject to the non-domestic rate in respect of that property.
- (6) An owner of property is an eligible person under subsection (5) only if on the relevant date there is no eligible tenant of that property.
- (7) Where there is more than one eligible tenant of property on the relevant date, the eligible person under subsection (5) is whichever of those tenants has no eligible tenant as a sub-tenant.

- (8) The Scottish Ministers may by regulations made by statutory instrument make provision altering who is to be an eligible person under subsection (5).
- (9) Subject to subsections (10) and (11), in this section the “owner” of property means the person who has right to the property whether or not that person has completed title.
- (10) If, in relation to property (or, if the property is held *pro indiviso*, in relation to any *pro indiviso* share in the property) more than one person comes within the description of owner in subsection (9), then “owner” means such person as has most recently acquired the right to the property.
- (11) Where a heritable creditor is in lawful possession of security subjects which comprise the property, then “owner” means that heritable creditor.
- (12) In this section—
 - “eligible tenant”, in relation to property, means a tenant or sub-tenant of property under a lease or sub-lease which has at least 5 years to run who is not subject to the non-domestic rate in respect of the property;
 - “non-domestic rate” is to be construed in accordance with section 7B of the Local Government (Scotland) Act 1975 (c. 30);
 - “relevant date” means such date as is specified in the statement referred to in subsection (2); and
 - “relevant property” means lands and heritages—
 - (a) which are within the business improvement district; and
 - (b) in respect of which there is an entry on the valuation roll made up under section 1 of the Local Government (Scotland) Act 1975.