

These notes refer to the Business Improvement Districts Act (Northern Ireland) 2013 (c.5) which received Royal Assent on 21 March 2013

Business Improvement Districts Act (Northern Ireland) 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

A short explanation of sections 1 – 22 is given below.

Section 1: Arrangements with respect to business improvement districts

Section 1 enables a district council to make arrangements for a business improvement district in a defined area within the district council's boundary for the benefit of those identified in the BID proposals. Section 1 also makes explicit that a BID project, in a district council area, need not involve businesses that are within a discrete geographic area, but can consist of businesses that are linked thematically, or that are near to one another without being wholly adjacent to each other.

Section 2: Joint arrangements

Section 2 allows the Department to make regulations outlining the procedure for when a BID proposal covers an area lying within the boundaries of two or more district councils.

Section 3: Additional contributions and action

Section 3 allows district councils, and any other person identified in the "BID arrangements", to make voluntary financial contributions towards funding a BID project.

Section 4: Duty to comply with arrangements

Section 4 places a duty on a district council to comply with the BID arrangements, once these are in force.

Section 5: BID proposals

Section 5 ensures that a BID project will only go ahead if the BID proposals have been approved by a ballot of those ratepayers identified in the BID proposals. Section 5 also allows the Department to set out in regulations the persons who can draw up BID proposals; the procedures for consultation, including who can be consulted on the proposals; the procedures which a person taking forward a

BID arrangement should follow when drawing up BID proposals; what should be outlined in the BID proposals; when the BID arrangements would commence; the circumstances in which disclosure of relevant information must be made by DFP; the purpose(s) for which this information may be used; and provides for the creation of offences and penalties in relation to the unauthorised disclosure of any data provided by DFP.

Section 6: Entitlement to vote in Ballot

Section 6 sets out how entitlement to vote is determined. It requires the BID proposer to provide a statement to the district council that lists all those who will be eligible to vote in the BID ballot. The choice of who can vote is ultimately determined by the names appearing in the statement prepared by the BID proposers and the decision of who appears on the list is vested in the BID proposers. A person will be eligible to vote if he is chargeable to rates in respect of a property on the Net Annual Valuation (NAV) list within the BID area.

Section 7: Approval in ballot

Section 7 sets out the conditions that must be met before a BID ballot can be regarded as approved. The conditions are:

- (a) A majority of the votes cast are in favour of the BID proposal;
- (b) At least 25% of those entitled to vote have done so;
- (c) Those who vote in favour represent a greater aggregate of net annual value than those who vote against;
- (d) At least 25% of the aggregate of the net annual values of all hereditaments in respect of which an eligible ratepayer is entitled to vote, have done so.

Section 8: Approval in ballot – alternative conditions

Section 8 allows those who have drawn up BID proposals to set a higher margin of either net annual values, or numbers of votes cast, or both, before a BID ballot can be taken as approved. In addition, the BID proposals submitted to the district council are required to state whether the alternative voting conditions will apply, so that a greater majority will be required, in either the number of votes cast by persons voting, or of the net annual value element of the vote.

Section 9: Power of veto

Section 9 confers the right to veto BID proposals on a district council. It requires the district council to notify the BID proposers whether or not it will use its veto, and to provide reasons for that decision, including where the veto has not been applied. Section 9 also provides that the circumstances in which the district council may veto a BID proposal may be prescribed by the Department and that the Department may also prescribe the matters which the district council must consider before it may veto a BID proposal. Where the veto is applied, the ballot will not take place. District councils are also required to inform the person

drawing up the BID proposals that he has a right of appeal against the veto to the Department. The district council must also notify the BID proposer of the details of that right of appeal.

Section 10: Appeal against veto

Section 10 allows any person who was entitled to vote in the BID ballot to appeal to the Department against a district council's decision to veto BID proposals. The Department will be able to make further provision via regulations as to the process behind an appeal.

Section 11: Commencement of BID arrangements

Section 11 provides for the BID arrangements to come into force on the day detailed in the BID proposals. It also places a duty on the district council to ensure the BID arrangements commence on the relevant day.

Section 12: Imposition and amount of BID levy

Section 12 provides that a BID levy can only be raised while BID arrangements are in force, and provides that the levy is to be calculated in accordance with the arrangements. The BID levy is not limited to being calculated on the basis of rateable value. It could for example be a flat rate levy. This clause also allows a BID levy to be different for different classes of ratepayer, which means relief(s) could be provided from the BID levy. Subsection (5) requires BID proposals to state whether the costs of developing the BID proposals and holding of the ballot are to be recovered through the BID levy.

Section 13: Liability and accounting for BID levy

Section 13 provides that BID proposals must specify who is liable for the BID levy, and that a person's liability is to be determined in accordance with the BID arrangements. It further specifies that all levy monies be paid directly to the district council which made the BID arrangements in question.

Section 14: BID Revenue Account

Section 14 requires a district council to open an account which is exclusively used to hold all revenues pertaining to a particular BID arrangement. This clause also gives the Department powers to make further provision relating to the BID account by regulations.

Section 15: Administration of BID levy etc.

Section 15 provides that the Department may make regulations governing the imposition, administration, collection, recovery and application of the BID levy.

Section 16: Duration of BID arrangements etc.

Section 16 sets a maximum time limit for BID projects of 5 years. It also provides for BID arrangements to be renewed, but only where a further ballot is approved

under the same conditions as outlined in section 7 or section 8, if alternative conditions used. Section 16 also allows the Department to make regulations setting out the procedure for alteration and termination of BID arrangements.

Section 17: Regulations about ballots

Section 17 allows the Department to make regulations governing the ballot process, particularly, but not exclusively, in relation to:

- (a) The timing of ballots;
- (b) The persons entitled to vote;
- (c) The question to be asked in a ballot;
- (d) The allocation of votes to those eligible ratepayers entitled to vote in a ballot,
- (e) The form that ballots may take;
- (f) The persons who are to hold ballots;
- (g) The conduct of ballots;
- (h) Allowing the Department to declare ballots void in cases of material irregularity;
- (i) Enabling a district council to recover the costs of a ballot.

Section 18: Power to make further provision

Section 18 allows the Department to make consequential and transitional provisions where necessary.

Section 19: Further provision as to regulations

Section 19 provides that any regulations made in the Bill are subject to negative resolution procedures in the Assembly, other than regulations under section 9. Draft affirmative procedure is required for regulations under section 2(1) (where they contain provision which modifies other legislation), section 5(2)(f)(iii) (the creation of offences and penalties in connection with any unauthorised disclosure of such information), section 9(3) (circumstances in which the district council veto may be exercised) and section 18(1) (where they contain provision amending any other statutory provision).

Section 20: Crown application

Section 20 provides that the Bill applies to the Crown.

Section 21: Interpretation

Section 21 provides definitions of terms used in the Bill.

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Section 22: Short title

Section 22 provides that the new legislation shall be known as the Business Improvement Districts Act (Northern Ireland) 2012.