

Executive Note

The Business Improvement Districts (Scotland) Regulations 2007 SSI/2007/202

The above instrument is laid in exercise of the powers conferred by section 37(4) 38(2) and (3), 42(2) and (7), 43(2), 45(4) and (5), 46 and 58 of the Planning etc. (Scotland) Act 2006 and by all other enabling powers. The instrument is subject to the negative resolution procedure.

Background

A Business Improvement District (BID) is a partnership between local businesses, engaging with their local authority, with the aim of transforming their area by creating a better business environment and promoting economic growth. The most famous example of a BID is Times Square in New York. A BID can be initiated by anyone as long as they fully engage with the businesses in the area and ensure any proposals drawn up meet their priorities. A BID would be funded, at least in part, by a levy which is subject to the approval of the businesses participating.

The Executive is committed to the implementation of BIDs and the associated primary legislation is contained in Part 9 of the Planning etc. (Scotland) Act 2006 (“the 2006 Act”). The draft Regulations were consulted upon and are, in terms of the 2006 Act, subject to negative resolution procedure. Separate Regulations, subject to affirmative procedure, in respect of the ballot arrangements that apply when tenants and owners are involved, as well as non domestic ratepayers, have been laid at Holyrood. A Section 104 Order under the Scotland Act 1998 is also to be laid at Westminster in this session of Parliament. The Order is required to allow the proposers of the BID to propose a levy from local business to fund the BID arrangements. The levy shall be a local tax which does not fund local authority expenditure, which is a reserved subject matter for Westminster.

These Regulations are broadly in line with those produced in England and Wales where many BID projects are now underway, as well as implementing the views of the BIDs Working Group. They regulate the various stages that a BID project must undergo before it is established. It is essential that the BID body involves the Local Authority from the outset, gathers the relevant information needed to produce robust BID proposals, including a well thought out Business Plan, and engages with its target audience. Procedures on all of these issues, which are largely in the domain of the businesses themselves, are contained in the Regulations. It is equally appropriate that administrative and appeal safeguards are in place to allow the ballot to go ahead fairly. These topics are also provided for.

In accordance with the Act, the Regulations differ in one notable aspect from those in England and Wales in that they allow the BID proposer an option to involve owners and tenants in a BID (as well as non domestic ratepayers). This approach was recommended to the Executive by the BIDs Working Group and was broadly welcomed by Scottish stakeholders through consultation. It reflects the view that since tenants and owners may also gain from a successful BID these groups should be involved in a ballot and liability for any levy.

Policy Objectives

The development of BIDs in Scotland was recommended by the Local Government Committee of the Scottish Parliament in its Report of Inquiry into Local Government Finance. The Executive's "Partnership Agreement" contains a commitment to "work with local authorities to establish Business Improvement Districts."

The Executive provided £0.5 million to support 6 Pilot Bids in Scotland during 2006-07 and a further £390k with additional match funding of £100k is available as they work towards ballots in 2007-08. The pilots were announced in March 2006. The aim is for each BID Pilot to develop BID proposals with the local business community so a vote on whether a BID goes ahead can take place in 2007-08.

Consultation

The draft Regulations (along with the draft Affirmative Regulations on ballot arrangements) were issued on 21st December 2006 to Scottish Local Authorities, businesses, relevant public bodies (including the Association of Electoral Administrators and Institute of Rating and Revenue Valuation) and to contacts in other UK departments for comment. During that time any person or organisation was free to make representations to Ministers.

There were fifteen responses to the Consultation exercise from Local Authorities, businesses, and public bodies. This exercise helped to refine much detail within the draft Regulations and provided further opportunity to consider elements of the BIDs proposals. Some respondents felt that the Regulations were overly prescriptive, while others argued that they lacked precision in certain areas. However, no significant issues arose and the only main detail that was amended is that Local Authorities will now have four weeks to consider BID proposals and confirm whether they will exercise their right of veto before the date of the BID ballot can be announced. The earlier suggested period of a fortnight was viewed by several Local Authorities as too tight and did not allow sufficient consideration of the proposals.

Financial Effects

The instrument will have no financial implications for the Scottish Executive. The underlying principle that BID projects are organised by business for business means that the capacity to meet all costs associated with the start up and administration of a BID project must exist locally. There is scope for the BID body to bring in funding or receive in-kind support from other organisations, including the Local Authority, to assist the BIDs Project. The effect of partnership working, which is also an important part of BIDs, is likely to generate additional support. The experience of BIDs in England suggests that this will be the case. There is no requirement, however, within the Regulations to provide such additional support.

**Scottish Executive
Finance and Central Services Department
March 2007**