

EXECUTIVE NOTE

THE BUSINESS IMPROVEMENT DISTRICTS (SCOTLAND) AMENDMENT REGULATIONS 2008 SSI/2008/359

The above instrument is made in exercise of the powers conferred by section 46 of the Planning etc. (Scotland) Act 2006 and of all other enabling powers. This instrument is subject to the negative resolution procedure.

Background

Legislation was passed by the Scottish Parliament in 2007 to enable the establishment of Business Improvement Districts (BIDs) in Scotland. In general terms a 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.

Policy Objective

The purpose of this instrument is to make an adjustment to Regulation 5(2)(a) of the Business Improvement Districts (Scotland) Regulations 2007 (S.S.I. 2007/202) to include the Scottish Ministers amongst those who require to be copied into the documents listed in 5(2)(a) of the 2007 Regulations. It also makes two minor technical amendments to Schedule 2 of the Business Improvement Districts (Scotland) Regulations 2007 (S.S.I. 2007/202) to (a) remove an inconsistency between the timetable in paragraph 1 and Regulation 4, and (b) make an amendment to paragraph 11(2) to amend the timescale for issue of replacement ballot papers. At the same time, the opportunity is taken to adjust two minor typographical errors.

The first amendment provides that, where the BID proposer decides to seek approval of BID proposals (or the approval of alteration or renewal proposals) in a BID ballot, then a copy of the BID proposals (or alteration or renewal proposals) should be sent to the Scottish Ministers, as well as to the local authority and the billing body (along with a summary of any consultation undertaken, the business plan, details of the financial arrangements for the BID and the names, addresses of eligible voters and their properties).

The second amendment is to delete the first section of the timetable governing the proceedings of the ballot in paragraph 1, which states that the BID proposer must give notice of the intention to put BID proposals to ballot "At least 98 days before the day of the ballot". This will remove an inconsistency with Regulation 4, which requires a BID proposer to "notify the local authority, the billing body and the Scottish Ministers in writing of the proposer's intention to ask the local authority to put the BID proposals to a ballot" at least 98 days before sending the notice requesting the local authority to instruct the ballot holder to hold a BID ballot in accordance with Regulation 5(2)(a)(ii). Deletion of the text is more appropriate than amendment because giving notice of intention to put BID proposals to ballot does not form part of the formal proceedings of the ballot, and Regulation 4 is sufficient in itself to cover the notice of intention to put BID proposals to ballot. In practice, the notice of intention to put BID proposals to ballot will usually need to be made at least 154 days before the earliest ballot date. This period is made up as follows:

- after giving notice of the intention to put BID proposals to ballot (in accordance with Regulation 4), BID proposers must allow 98 days to elapse before requesting the local authority to instruct the ballot holder to hold a BID ballot (in accordance with Regulation 5(2)(a)(ii));
- to allow time to put in place ballot arrangements, in practice it is likely that at least 14 days should elapse between the local authority instructing the ballot holder to hold a BID ballot (in accordance with Regulation 6) and the day on which ballot papers are issued; and
- the ballot holder must issue ballot papers at least 42 days before the day of the ballot (in accordance with paragraph 3 of Schedule 2).

The third amendment corrects minor numbering errors in paragraph 10(2).

The fourth amendment removes a potential constraint on the issue of a replacement ballot paper if a voter has inadvertently spoiled their original ballot paper. Without this amendment, the words on receipt of the spoiled ballot paper “Later than the date that is 3 working days prior to the day of the ballot” in paragraph 11(2) could be interpreted as preventing a ballot holder from issuing a new ballot paper earlier than 2 working days before the ballot date. This was not the policy intention. The amendment will allow the ballot holder to issue a new ballot paper to the voter at any time, provided the ballot holder is satisfied as to the voter’s identity. The amendment also removes the unnecessary word “he”, which is a typographical error.

Consultation

There is no statutory obligation to consult on this instrument. The earlier 2007 Regulations were subject to full consultation. These minor technical amendments have been welcomed by those responsible for developing and implementing BID proposals in Scotland.

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