
WELSH STATUTORY INSTRUMENTS

2005 No. 1312

The Business Improvement Districts (Wales) Regulations 2005

Application, name, commencement and interpretation

1.—(1) These Regulations, which apply in Wales, may be cited as the Business Improvement Districts (Wales) Regulations 2005 and shall come into force on 13 May 2005.

(2) In these Regulations —

“the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972⁽¹⁾;

“the 1988 Act” (“*Deddf 1988*”) means the Local Government Finance Act 1988⁽²⁾;

“the 1989 Regulations” (“*Rheoliadau 1989*”) means the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989⁽³⁾;

“the Act” (“*y Ddeddf*”) means the Local Government Act 2003;

“alteration ballot” (“*pleidlais ddiwygio*”) has the meaning given in regulation 17;

“alteration proposals” (“*cynigion diwygio*”) means proposals in relation to the alteration of BID arrangements in accordance with regulation 17;

“the amount payable” (“*swm sy'n daladwy*”) for a chargeable period or part of a chargeable period in relation to a particular person, a relevant billing authority and a hereditament means—

- (a) the amount which that person is liable to pay to the authority as regards the hereditament in respect of the period or part thereof under section 46 of the Act by virtue of that person falling within the description of persons liable to the BID levy in the BID arrangements; or
- (b) where an amount falls to be credited by the authority against that person’s liability in respect of the period or part thereof, the amount (if any) by which the amount referred to in sub-paragraph (a) exceeds the amount falling to be so credited;

“ballot holder” (“*trefnydd y bleidlais*”) has the meaning given in regulation 6;

“barcode” (“*cod bar*”) means marks —

- (a) appearing on the ballot paper and containing in an encoded form information relating to that voter and that 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” (“*AGB*”) means business improvement district;

“BID ballot” (“*pleidlais AGB*”) means a ballot under section 49(1) of the Act;

(1) 1972 c. 70.

(2) 1988 c. 41.

(3) S.I.1989/1058; amendments are made by S.I. 1990/145, 1991/141, 1991/1127, 1992/474, 1992/1512, 1993/774, 1993/894, 1993/1493, 1995/212, 1998/3089 and 2003/1714.

“BID body” (“*corff AGB*”) means, where a local authority BID body is not responsible for implementing the BID arrangements, the body (whether corporate or not corporate) responsible for the implementation of the arrangements;

“BID proposer” (“*cynigydd yr AGB*”) means a person who draws up BID proposals;

“commencement date” (“*dyddiad cychwyn*”) means, subject to regulation 9(12), the day on which, in accordance with section 53 of the Act, the BID arrangements are to come into force;

“data form” (“*ar ffurf data*”) means information which is in a form which is capable of being processed by means of equipment operating automatically in response to instructions given for that purpose;

“the day of the ballot” (“*diwrnod y bleidlais*”) means the day determined by the ballot holder, in accordance with paragraph 2 of Schedule 2;

“demand notice” (“*hysbysiad galw am dalu*”) means the notice required to be served under paragraph 2(1) of Schedule 4;

“electronic communication” (“*cyflwyno...yn electronig*”) 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 a telecommunication system (within the meaning of the Telecommunications Act 1984(4)); or

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

“hereditament” (“*hereditament*”) means anything which is or is treated as being a hereditament by virtue of the provisions of or any provisions made under section 64 of the 1988 Act including any hereditament to which regulation 6 of the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989(5) applies but otherwise excluding any hereditament to which regulations made under section 64(3)(b) of the 1988 Act apply;

“liability order” (“*gorchymyn atebolrwydd*”) has the meaning given in regulation 10 of the 1989 Regulations;

“local authority BID body” (“*corff AGB llywodraeth leol*”) means, where the relevant billing authority or a company under the control of the authority (within the meaning given in section 68 of the Local Government and Housing Act 1989(6)) is responsible for implementing the BID arrangements, that person;

“National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“person entitled to vote” (“*person sydd â hawl i bleidleisio*”) has the meaning given in regulation 8;

“re-ballot” (“*ail bleidlais*”) means a BID ballot, renewal ballot, or alteration ballot, as the case may be, which is required to be arranged in accordance with regulation 9(10);

“relevant billing authority” (“*awdurdod bilio perthnasol*”) means the billing authority for the geographical area of the BID;

“renewal ballot” (“*pleidlais adnewyddu*”) means a ballot under section 54(2) of the Act;

“renewal proposals” (“*cynigion adnewyddu*”) means proposals in relation to the renewal of the BID arrangements under section 54(2) of the Act;

“veto” (“*feto*”) means a veto by the relevant billing authority in accordance with section 51(2) of the Act;

(4) 1984 c. 12.

(5) S.I. 1989/1060; relevant amendments are made by S.I. 1993/616.

(6) 1989 c. 42.

“veto notice” (“*hysbysiad feto*”) means a notice given by a billing authority in accordance with section 51(4) of the Act; and

“working day” (“*diwrnod gwaith*”) means any day other than a Saturday, Sunday, Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(7).

- (3) In these Regulations a reference —
- (a) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
 - (b) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
 - (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

Obtaining information from billing authority for the purpose of developing BID proposals

2.—(1) On receiving a request (made in accordance with paragraph (2)) from any person who is developing BID proposals, the relevant billing authority must —

- (a) prepare a document showing (as far as the relevant billing authority is able to ascertain from its non-domestic rates billing records at that time) the name of each non-domestic ratepayer and the address and rateable value of each hereditament which is occupied, or (if unoccupied) owned, by him or her in the geographical area of the proposed BID; and
- (b) supply a copy of the information in the document to the person concerned in data form.

(2) A request under paragraph (1) must —

- (a) be made in writing to the relevant billing authority;
- (b) confirm that the person making the request intends to make use of the information requested only for the purpose of developing the BID proposal described in the request;
- (c) provide a summary of the nature of the BID proposals to be developed;
- (d) provide a description of the geographical area of the proposed BID; and
- (e) be accompanied by the fee (if any) imposed by the relevant billing authority under paragraph (4).

(3) No person may —

- (a) disclose to any person any information supplied to it under paragraph (1);
- (b) make use of any such information,

otherwise than for the purpose of developing the BID proposal described in the request made under paragraph (1).

(4) The relevant billing authority may impose a charge in respect of dealing with a request and supplying the information under this regulation on the person making the request.

(5) The relevant billing authority must ensure that the amount of a charge imposed under paragraph (4) is reasonable having regard to the costs incurred or likely to be incurred by the authority in dealing with requests and supplying information under this regulation.

BID proposer

3.—(1) The following persons may draw up BID proposals —

- (a) any person who, at the date they send BID proposals to the relevant billing authority under regulation 4(2)(a) —
 - (i) is a non-domestic ratepayer in relation to a hereditament situated in the proposed BID;
 - (ii) has an interest in land (situated in the area to be comprised in such proposals) as freeholder, mortgagee or lessee, or directly or indirectly receives rent for the land (whether or not they are a non-domestic ratepayer in relation to that land); or
 - (iii) is a body (whether corporate or not corporate) one of whose purposes is or includes developing BID proposals; and
- (b) the relevant billing authority.

(2) A BID proposer must, at least 84 days before sending the notice required under regulation 4(2)(a)(ii), notify the relevant billing authority and the National Assembly in writing of the proposer's intention of asking the relevant billing authority 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, must include the matters mentioned in paragraphs 1, 2 and 3 of Schedule 1.

(2) Where a BID proposer decides to seek approval of BID proposals in a BID ballot or the BID body decides to seek approval of alteration proposals in an alteration ballot or renewal proposals in a renewal ballot, it must —

- (a) send to the relevant billing authority —
 - (i) a copy of the BID proposals, alteration proposals or renewal proposals, as the case may be, together with a summary of —
 - (aa) the consultation process it has undertaken with those persons who are to be liable for the proposed BID levy;
 - (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 proposed agreement to be entered into with the relevant billing authority; and
 - (dd) the financial management arrangements for the BID body, and the arrangements for periodically providing the relevant billing authority with information on the finances of the BID body; and
 - (ii) a notice requesting the relevant billing authority to instruct the ballot holder to hold a BID ballot, an alteration ballot or a renewal ballot, as the case may be; and
 - (b) provide the relevant billing authority with such information as it shall reasonably require to satisfy itself 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;
 - (b) a BID body or a local authority BID body, as the case may be, decides to seek approval of alteration proposals in an alteration ballot or renewal proposals in a renewal ballot,

it must 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 to be liable for the proposed BID levy and who requests a copy.

(4) Where the relevant billing authority considers that the BID proposals, renewal proposals or alteration proposals conflict with a policy formally adopted by and contained in a document published by the authority (whether or not the authority is under a statutory duty to prepare such document) the authority must, 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 relevant billing authority —

- (a) subject to paragraph (2), receives a notice under regulation 4(2)(a)(ii);
- (b) in the case where a local authority BID body is responsible for implementing the BID arrangements, decides to seek approval of alteration proposals or renewal proposals, as the case may be; or
- (c) receives a notification from the National Assembly under regulation 9(10) requiring it to arrange a re-ballot;

it must 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 relevant billing authority receives a notice under 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 4(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 whom the relevant billing authority has appointed under section 35 of the Representation of the People Act 1983(8) as the returning officer for elections to that authority.

(2) The ballot holder may by writing under his or her hand appoint one or more persons to discharge all or any of his or her 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 must make arrangements for conducting a BID ballot, alteration ballot, renewal ballot or re-ballot, as the case may be, in accordance with Schedule 2.

Persons entitled to vote

8.—(1) A person shall be entitled to vote in a BID ballot, an alteration ballot or a re-ballot in respect of a BID ballot or an alteration ballot if, on the date the ballot holder publishes the notice under paragraph 3(a) of Schedule 2, they fall within the class of non-domestic ratepayers to be liable for the BID levy described in the BID proposals or the alteration proposals, as the case may be.

(2) A person shall be entitled to vote in a renewal ballot or a re-ballot in respect of a renewal ballot if, on the date the ballot holder publishes the notice under paragraph 3(a) of Schedule 2, they fall within the class of non-domestic ratepayers who on that date are liable for the BID levy.

(8) 1983 c. 2.

(3) Where, in respect of a hereditament, more than one person is or is to be liable for the BID levy as partners or trustees the person entitled to vote in respect of that hereditament shall be the partners or trustees jointly.

Declaring a ballot void

9.—(1) Subject to paragraph (3), the National Assembly 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 National Assembly’s opinion, 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 National Assembly’s opinion, 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; or
- (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 National Assembly’s opinion, 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.

(3) Paragraph (1) shall not apply unless, by the date which is 28 days after the notice of the result is published under 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 National Assembly 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 relevant billing authority.

(5) On receipt of a request under paragraph (3) the National Assembly must notify the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, 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 National Assembly may decide those requests together.

(7) Within 28 days of the date of the notice given by the National Assembly under paragraph (5) the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, may serve on the National Assembly written representations in respect of the request.

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

(10) The National Assembly must notify the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, of its decision and where it declares void a BID ballot, renewal ballot, alteration ballot or re-ballot, it must notify the relevant billing authority 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 National Assembly declares void a BID ballot, a renewal ballot, an 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, as the case may be, it must issue a notice to that effect with its decision notice and it must include in the notice an explanation of the effect of regulation 10.

(12) Where the National Assembly declares void a BID ballot, a renewal ballot, an 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
- (b) subject to paragraph (13), the BID arrangements, the renewed BID arrangements or the alterations to the BID arrangements, if subsequently approved in the re-ballot, shall come into force on such day as the relevant billing authority determines.

(13) The day determined under paragraph (12) must be no later than a year after the date of the notice of the result is published under paragraph 17 of Schedule 2.

Payment of costs of a ballot

10.—(1) This paragraph applies where the number of persons voting in the ballot who have voted in favour is less than 20 per cent of the number of persons entitled to vote in the ballot and —

- (a) the proposals were not approved in the ballot; or
- (b) the National Assembly issues a notice under regulation 9(11) in relation to the ballot.

(2) Where paragraph (1) applies the relevant billing authority may require the BID proposer or the BID body, as the case may be, to pay the costs of arranging and holding the ballot and the relevant billing authority may recover this amount as a civil debt due to it.

(3) The costs referred to in paragraph (2) include any expenses properly incurred by the ballot holder and charged to the relevant billing authority under regulation 20.

Obtaining information from billing authority for the purpose of canvassing

11.—(1) As soon as practicable after instructing the ballot holder to hold a ballot (under regulation 5(1)), the relevant billing authority must —

- (a) prepare a document showing (as far as the relevant billing authority is able to ascertain from its non-domestic rates billing records at that time) the name of each non-domestic ratepayer and the address and rateable value of each hereditament which is occupied, or (if unoccupied) owned, by him or her in the geographical area to which any BID proposals, alteration proposals or renewal proposals, as the case may be, relate;
- (b) provide a copy of that document to the ballot holder; and
- (c) make available for inspection by any person a copy of the information in that document at its principal office during normal working hours.

(2) On receiving a request (made in accordance with paragraph (3)) from —

- (a) the BID proposer or BID body, as the case may be; or
- (b) any person who, or any group of persons which, represents 5 per cent or more of the persons who are to be liable for any proposed BID levy,

the relevant billing authority must supply in data form a copy of the information in the document it is required to prepare under paragraph (1) to the person or group of persons concerned.

(3) A request under paragraph (2) must —

- (a) be made in writing to the relevant billing authority;

- (b) identify the BID ballot, alteration ballot, renewal ballot or re-ballot in relation to which the request is made;
 - (c) confirm that the person or group of persons making the request intends to make use of the information requested only for the purpose of canvassing persons entitled to vote in the BID ballot, alteration ballot, renewal ballot or re-ballot identified in the request made under paragraph (2); and
 - (d) be accompanied by the fee (if any) imposed by the relevant billing authority under paragraph (5).
- (4) No person may —
- (a) disclose to any person any information supplied to it under paragraph (2);
 - (b) make use of any such information,

otherwise than for the purpose of canvassing persons entitled to vote in the BID ballot, alteration ballot, renewal ballot or re-ballot identified in the request made under paragraph (2).

(5) The relevant billing authority may impose a charge in respect of dealing with a request and supplying the information under this regulation on the person to whom the information is to be supplied.

(6) The relevant billing authority must ensure that the amount of a charge imposed under paragraph (5) is reasonable having regard to the costs incurred or likely to be incurred by the authority in dealing with requests and supplying information under this regulation.

Veto of BID proposals

12.—(1) For the purposes of section 51(2) of the Act, the prescribed circumstances are that the relevant billing authority is of the opinion that the BID arrangements are likely —

- (a) to conflict to a material extent with any policy formally adopted by and contained in a document published by the authority (whether or not the authority is under a statutory duty to prepare such document); or
- (b) to be a significantly disproportionate financial burden on any person or class of persons (as compared to the other non-domestic ratepayers in the geographical area of the BID) and —
 - (i) that burden is caused by the manipulation of the geographical area of the BID or by the structure of the BID levy; and
 - (ii) that burden is inequitable.

(2) For the purposes of section 51(2) of the Act, the prescribed period is 15 working days from the day of the ballot.

(3) For the purposes of section 51(3) of the Act, the prescribed matters to which the relevant billing authority must have regard in deciding whether to exercise its veto are —

- (a) the level of support (as evidenced by the result of the BID ballot or re-ballot of a BID ballot, as the case may be) for the BID proposals;
- (b) the nature and extent of the conflict referred to in paragraph (1)(a);
- (c) in relation to paragraph (1)(b), the structure of the proposed BID levy and how the financial burden of the BID is to be distributed amongst ratepayers in the geographical area of the BID;
- (d) the extent to which the BID proposer discussed the BID proposals with the authority before submitting the BID proposals to the authority under regulation 4; and
- (e) the cost incurred by any person up to the end of the period prescribed in paragraph (2) in developing the BID proposals and canvassing in relation to the BID proposals.

Appeal against veto

13.—(1) A person (“the appellant”) who wishes to appeal against a veto under section 52(1) of the Act must serve on the National Assembly, within 28 days of the veto notice being given by the relevant billing authority under section 51(4) of the Act, a notice in writing (“the appeal notice”) accompanied by a statement of the reasons for making the appeal.

(2) On receipt of the appeal notice the National Assembly must —

- (a) notify the appellant and the relevant billing authority in writing that it has received the appeal notice; and
- (b) send a copy of the appeal notice to the relevant billing authority.

(3) Where two or more appeal notices relate to the same veto, the National Assembly may decide those appeals together.

(4) The appeal shall be determined by way of written representations to be made to the National Assembly.

(5) Within 28 days of the date of the notice given by the National Assembly under paragraph (2), the appellant and the relevant billing authority may serve on the National Assembly written representations in respect of the appeal.

(6) A copy of the representations made by one party to the appeal must be sent by the National Assembly to the other parties to the appeal and must be accompanied by a statement explaining the effect of paragraph (7).

(7) Any party to an appeal to whom a copy of representations is sent under paragraph (6) may within 14 days of receiving them serve on the National Assembly further written representations in reply and the National Assembly must send a copy of any such further representations to the other parties to the appeal.

(8) In deciding whether to allow an appeal, the National Assembly must take into account the following matters —

- (a) the level of support (as evidenced by the result of the BID ballot or re-ballot of a BID ballot, as the case may be) for the BID proposals;
- (b) the nature and extent of the conflict referred to in regulation 12(1)(a);
- (c) in relation to regulation 12(1)(b), the structure of the proposed BID levy and how the financial burden of the BID is to be distributed amongst ratepayers in the geographical area of the BID;
- (d) the extent to which the BID proposer discussed the BID proposals with the authority before submitting the BID proposals to the authority under regulation 4;
- (e) whether, after the date on which the notice under regulation 4(2)(a)(ii) is received, the relevant billing authority changed any policy formally adopted by and contained in a document published by the authority so that such policy then conflicted with the BID proposals; and
- (f) the cost incurred by any person up to the end of the period prescribed in regulation 12(2) in developing the BID proposals and canvassing in relation to the BID proposals.

(9) As soon as reasonably practicable after a decision has been made, the National Assembly must send notice of its decision to the appellant and the relevant billing authority.

BID Revenue Account

14.—(1) Schedule 3 shall have effect with respect to the keeping of the BID Revenue Account.

(2) Where the relevant billing authority has more than one notice under regulation 4(2)(a)(ii) it must ensure that a separate BID Revenue Account is kept for each of the BIDs.

(3) This paragraph applies where BID arrangements come to an end (whether by reason of termination under regulation 18 or otherwise) and there is a credit to the BID Revenue Account which, after deducting a reasonable sum for the cost of administering the arrangements for crediting or refunding the amount, would provide a credit or refund of at least £5 for each person who was liable to pay the BID levy immediately prior to the end of the BID arrangements (“a previous levypayer”).

(4) Where paragraph (3) applies the relevant billing authority must —

- (a) calculate the amount of the credit to the BID Revenue Account (after the deduction referred to in paragraph (3) has been made) which is to be credited or refunded to each previous levypayer (and the amount to be credited or refunded to each previous levypayer must be calculated in proportion to the amount of the BID levy which each previous levypayer was liable to pay for the last chargeable period of the BID arrangements); and
- (b) make arrangements for the amount so calculated to be credited against any liability by way of non-domestic rates of each previous levypayer or, where there is no liability for that person by way of non-domestic rates, for the amount to be refunded to that person.

(5) Where paragraph (3) does not apply, the relevant billing authority must carry the credit balance in the BID Revenue account to the credit of its general fund.

Administration of the BID levy etc

15. The relevant billing authority must, by the commencement date, make arrangements for the imposition, administration, collection, recovery and application of the BID levy and Schedule 4 shall have effect with respect to those matters.

Alteration of BID arrangements without an alteration ballot

16.—(1) Subject to paragraphs (2) to (4), BID arrangements may be altered without an alteration ballot where the arrangements include a provision to that effect.

(2) No provision mentioned in paragraph (1) may alter —

- (a) the geographical area of the BID; or
- (b) the BID levy in such a way that would —
 - (i) cause any person to be liable to pay the BID levy who was not previously liable to pay; or
 - (ii) increase the BID levy for any person.

(3) Where paragraph (1) applies, the BID arrangements must include a provision describing the procedure to make the alteration.

(4) The procedure referred to in paragraph (3) must include —

- (a) where there is a BID body, a consultation between the BID body and the relevant billing authority; and
- (b) where a local authority BID body is responsible for implementing the BID arrangements, a consultation between the relevant billing authority and such representatives of the business community for the geographical area of the BID as the authority considers appropriate.

(5) Where the BID arrangements are altered under this regulation —

- (a) the relevant billing authority must ensure that the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are to come into force and must send a notice explaining the reason for and the effect of the alteration to each person liable for the BID levy; and

- (b) sections 44 to 47 of the Act, regulations 14 to 18 and Schedules 3 and 4 shall have effect from the date the BID arrangements (as altered) come into force as if a reference in each of those provisions to “BID arrangements” were a reference to the BID arrangements (as altered).

Alterations of the BID arrangements following a ballot

17.—(1) Where there is a proposal to alter —

- (a) BID arrangements which do not include a provision allowing for the arrangements to be altered without a ballot;
- (b) the geographical area of the BID; or
- (c) the BID levy in such a way that would —
 - (i) cause any person to be liable to pay the BID levy who was not previously liable to pay; or
 - (ii) increase the BID levy for any person,the BID body or, where a local authority BID body is responsible for implementing the BID arrangements, the relevant billing authority may alter the BID arrangements in accordance with this regulation.

(2) An alteration of the BID arrangements under this regulation is not to come into force unless the alteration proposals are approved by a ballot of the non-domestic ratepayers who are to be liable for the BID levy under the BID arrangements (as altered) (“an alteration ballot”) and they are not to be regarded as approved by an alteration ballot unless —

- (a) a majority of the persons voting in the alteration ballot have voted in favour of the alteration proposals; and
 - (b) the aggregate of the rateable values of each hereditament in respect of which a person voting in the alteration ballot has voted in favour of the alteration proposals exceeds the aggregate of the rateable values of each hereditament in respect of which a person voting in the alteration ballot has voted against the alteration proposals.
- (3) Where BID arrangements are altered under this regulation —
- (a) the relevant billing authority must ensure that the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are to come into force; and
 - (b) sections 44 to 47 of the Act, regulations 14 to 18 and Schedules 3 and 4 shall have effect from the date the BID arrangements (as altered) come into force as if a reference in each of those provisions to “BID arrangements” were a reference to the BID arrangements (as altered).

Termination of BID arrangements

18.—(1) The relevant billing authority may terminate BID arrangements where —

- (a) in the opinion of the authority, the BID body will have insufficient finances to meet its liabilities for the current chargeable period and the authority has —
 - (i) offered the BID body a reasonable opportunity to arrange for financing the shortfall or for a reduction in the works or services under the BID arrangements which is sufficient to offset the shortfall; and
 - (ii) given those persons who are liable for the BID levy an opportunity, at a public meeting, to make representations in relation to the termination of the BID arrangements;

- (b) in the opinion of the authority, the BID body has failed to provide, or to make reasonable progress in the provision of, the work or services to be provided under the BID arrangements; or
 - (c) the authority is unable, due to any cause beyond its control, to provide works or services which are necessary for the BID to continue and the authority has —
 - (i) where there is a BID body, consulted the BID body and conducted a consultation with such representatives of the business community for the geographical area of the BID as the authority considers appropriate; and
 - (ii) where a local authority BID body is responsible for implementing the BID arrangements, conducted a consultation with such representatives of the business community for the geographical area of the BID as the authority considers appropriate.
- (2) Subject to paragraph (3), the BID body or, where a local authority BID body is responsible for implementing the BID arrangements, the relevant billing authority may terminate the BID arrangements where —
- (a) the works or services to be provided under the BID arrangements are no longer required; or
 - (b) the BID body or local authority BID body, as the case may be, is unable, due to any cause beyond its control, to provide works or services which are necessary for the BID to continue.
- (3) The BID body or, where a local authority BID body is responsible for implementing the BID arrangements, the relevant billing authority must take no steps to terminate the BID arrangements until —
- (a) where there is a BID body, it has consulted the relevant billing authority and conducted a consultation with such representatives of the business community for the geographical area of the BID as the authority considers appropriate; and
 - (b) where a local authority BID body is responsible for implementing the BID arrangements, the relevant billing authority has conducted a consultation with such representatives of the business community for the geographical area of the BID as the authority considers appropriate.
- (4) The relevant billing authority must notify the BID body in writing of its intention to terminate the BID arrangements under paragraph (1) or (2) at least 28 days before the date of the termination.
- (5) The BID body must notify the relevant billing authority in writing of its intention to terminate the BID arrangements under paragraph (2) at least 28 days before the date of the termination.
- (6) Where BID arrangements are terminated under this regulation the relevant billing authority must, as soon as is reasonably practicable, give written notice of the termination to each person liable for the BID levy and the notice must include an explanation of whether a repayment under regulation 14(4) is to be made.

Information

19. The relevant billing authority must supply to the ballot holder any information he or she requires for the purposes of carrying out his or her functions under these Regulations.

Expenses of the ballot holder

20. All expenditure properly incurred by the ballot holder in relation to the holding of a ballot under these Regulations must be paid by the relevant billing authority.

Electronic communication of requests, applications or notices

21.—(1) Subject to paragraph (2), a requirement in these Regulations that any request, application or notice should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it —

- (a) is transmitted by electronic communication;
- (b) is received in legible form; and
- (c) is capable of being used for subsequent reference.

(2) Paragraph (1) shall not apply to any notice required or authorised to be given to or served by a billing authority on any person by Schedule 4 or any information required by paragraph 3(2) of that Schedule.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(9)

10 May 2005

D. Elis-Thomas
The Presiding Officer of the National Assembly