

SCHEDULE 2

Rules for ballots

PART 2

Rules for ballots

Day of the ballot

2.—(1) Subject to sub-paragraph (2), the ballot holder shall secure that the day of the ballot is—

- (a) a working day;
- (b) at least 28 days after the date on which the ballot papers were sent to voters (or, where the ballot papers were sent on more than one date, the last such date); and
- (c) no later than 90 days from the date on which he published the notice required by paragraph 3(a).

(2) No later than 42 days before day of the ballot, the ballot holder may postpone the day of the ballot by up to 15 working days.

(3) Where the ballot holder postpones the ballot under sub-paragraph (2), the ballot holder shall notify the relevant billing authority and the BRS-BID proposer or BRS-BID body, as the case may be, in writing of the new day of the ballot and the reasons for the postponement and shall take reasonable steps to publicise the new day of the ballot.

Ballots—preliminary procedures

3. The ballot holder shall, at least 42 days before the day of the ballot—

- (a) publish notice of the ballot stating—
 - (i) the day of the ballot; and
 - (ii) that the ballot will be taken entirely by post, with votes to be returned by 5pm on the day of the ballot;
- (b) prepare a list of persons entitled to vote and proxies (if any);
- (c) send to each person entitled to vote or, if applicable, his proxy a statement which—
 - (i) explains the arrangements for the ballot;
 - (ii) explains that regulation 5(4) allows that person to request a copy of the BRS-BID proposals from the BRS-BID proposer or, where the relevant billing authority has drawn up the BRS-BID proposals, from that authority; and
 - (iii) provides the name and address of the BRS-BID proposer or, where the relevant billing authority has drawn up the BRS-BID proposals, the name and address of that authority; and
- (d) send to the Secretary of State a copy of the notice referred to in sub-paragraph (a).

Ballots-general

4.—(1) Each ballot shall be a postal ballot.

(2) Each person entitled to vote in a BRS-BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, by virtue of having a relevant property interest shall have one vote in respect of each such interest.

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(3) In ascertaining the rateable value of a hereditament for the purposes of a BRS-BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, no account shall be taken of any alteration to the rateable value which is not shown in the list maintained under section 42(4) of the 1988 Act immediately prior to the end of the day of the ballot.

Proxy voting

5.—(1) Subject to the provisions of this paragraph, any person is capable of being appointed proxy to vote for another in a ballot and may vote in pursuance of the appointment.

(2) The person entitled to vote cannot have more than one person at a time appointed as proxy to vote for him in a ballot.

(3) Where the person entitled to vote applies to the ballot holder for the appointment of a proxy to vote for him in a particular ballot, the ballot holder shall make the appointment if the ballot holder is satisfied that the application meets the requirements of this paragraph and that the proxy is capable of being, and willing to be, appointed.

(4) An application for the appointment of a proxy shall—

- (a) state the full name and address of the person whom the person entitled to vote (the applicant) wishes to appoint as his proxy;
- (b) state the address of the applicant's hereditament;
- (c) be signed by the applicant or on behalf of the applicant by a person acting under the authority of the applicant; and
- (d) contain a statement by the applicant that he has consulted the proxy so named and that that person is capable of being and willing to be appointed.

(5) An application to appoint a proxy shall be refused for the purposes of a particular ballot if it is received by the ballot holder after 5pm on the tenth day before the day of the ballot.

(6) Where the ballot holder grants an application for the appointment of a proxy, the ballot holder shall—

- (a) confirm by notice in writing to the person entitled to vote that the proxy has been appointed, the proxy's name and address; and
- (b) include the proxy's details on the list referred to in paragraph 3(b).

(7) Where the ballot holder refuses an application to appoint a proxy, the ballot holder shall notify the applicant in writing of the decision and of the reason for it.

(8) Subject to sub-paragraph (9), the appointment shall remain in force for that ballot only.

(9) The appointment may be cancelled by the person entitled to vote giving notice to the ballot holder or by the proxy giving notice to the ballot holder that the person no longer wishes to act as proxy.

(10) A notice under sub-paragraph (9) by any person entitled to vote cancelling a proxy's appointment shall be disregarded for the purposes of a ballot if it is received by the ballot holder after 5pm on the fifth day before the date of the poll at that ballot.

(11) Where the appointment of a proxy is cancelled under sub-paragraph (9), the ballot holder shall—

- (a) notify the person entitled to vote in writing that the appointment has been cancelled;
- (b) notify the person whose appointment as proxy has been cancelled in writing, unless the ballot holder has previously been notified by that person that he no longer wishes to act as proxy; and
- (c) remove the name of the proxy from the record kept under paragraph 3(b).

Requirement of secrecy

6.—(1) Every person attending the proceedings in connection with the issue or the receipt of ballot papers shall maintain and aid in maintaining the secrecy of the voting and shall not attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the way in which any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not communicate any information obtained at the counting of the votes as to the way in which any vote is given on any particular ballot paper.

(3) Nothing in this paragraph shall prevent the ballot holder and his clerks ascertaining the address and rateable value of each hereditament in respect of which a vote is cast.

Notification of requirement of secrecy

7. The ballot holder shall make such arrangements as the ballot holder thinks fit to ensure that every person attending at proceedings in connection with the issue or receipt of ballot papers or the counting of the votes has been given a copy in writing of the provisions of paragraph 6.

The ballot paper

8.—(1) Nothing is to be printed on the ballot paper except in accordance with this paragraph.

(2) Each ballot paper may have a number or barcode printed on the back.

(3) The box in which a vote may be marked on the ballot paper shall not be less than 1.5 centimetres square.

(4) All of the words on the ballot paper shall appear in the same size type.

(5) Each ballot paper for a BRS-BID ballot, or a re-ballot in relation to a BRS-BID ballot, shall include the following wording—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Are you in favour of the Property Owner Business Improvement District proposals for *[insert a list of the names of the streets in the geographical area covered by the BRS-BID proposals]*?

Place a cross (X) in the box of your choice.

YES		NO	
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This vote is in respect of—

[insert address of the hereditament of the person entitled to vote]

I confirm that I am entitled to vote in respect of this hereditament

Signed.....

Name (in block capitals).....

Position..... (N.B. where the person entitled to vote is a company or partnership please state the position held by the person signing)

Note: for your vote to be valid this ballot paper must be signed and returned to the ballot holder at *[insert address for return of ballot papers]* by 5pm on *[insert the day of the ballot]*

(6) Each ballot paper for a renewal ballot, or re-ballot in relation to a renewal ballot, shall include the following wording—

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Are you in favour of renewing the Property Owner Business Improvement District arrangements for *[insert a list of the names of the streets in the geographical area covered by the BRS-BID arrangements]* for a further period of *[specify duration of the proposed renewed BRS-BID arrangements]* ?

Place a cross (X) in the box of your choice.

YES		NO	
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This vote is in respect of—

[insert address of the hereditament of the person entitled to vote]

I confirm that I am entitled to vote in respect of this hereditament

Signed.....

Name (in block capitals).....

Position..... (N.B. where the person entitled to vote is a company or partnership please state the position held by the person signing)

Note: for your vote to be valid this ballot paper must be signed and returned to the ballot holder at *[insert address for return of ballot papers]* by 5pm on *[insert the day of the ballot]*

(7) Each ballot paper for an alteration ballot, or re-ballot in relation to an alteration ballot, shall include the following wording—

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Are you in favour of the alteration of the Property Owner Business Improvement District arrangements for [insert a list of the names of the streets in the geographical area covered by the BRS-BID proposals]?

Place a cross (X) in the box of your choice.

YES		NO	
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This vote is in respect of—

[insert address of the hereditament of the person entitled to vote]

I confirm that I am entitled to vote in respect of this hereditament

Signed.....

Name (in block capitals).....

Position..... (N.B. where the person entitled to vote is a company or partnership please state the position held by the person signing)

Note: for your vote to be valid this ballot paper must be signed and returned to the ballot holder at [insert address for return of ballot papers] by 5pm on [insert the day of the ballot]

Prohibition of disclosure of vote

9. No person who has voted shall, in any legal proceeding to question the BRS-BID ballot, renewal ballot, alteration ballot or re-ballot, be required to state the way in which he voted.

Procedure on issue of ballot paper

10.—(1) One ballot paper shall be issued in respect of each person entitled to vote in the BRS-BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, in respect of each hereditament for which he is entitled to vote.

(2) The address to which the ballot paper is to be sent is—

- (a) the address of the hereditament or the principal place of business of the person entitled to vote; or
- (b) in the case of a proxy, the address shown for the proxy on the list prepared under paragraph 3(b).

(3) At the same time there shall be issued to each person entitled to vote or, if applicable, that person’s proxy—

- (a) a statement prepared by the ballot holder providing an explanation of the BRS-BID arrangements, or, in the case of an alteration ballot, an explanation of the proposed alterations, and the arrangements for the ballot; and
- (b) an envelope for the return of the ballot paper (referred to in this Schedule as the “return envelope”).

(4) For the purpose of delivering the ballot papers the ballot holder may use a postal operator within the meaning of Part 3 of the Postal Services Act 2011(1).

(5) Postage shall be prepaid on envelopes in which the ballot paper is issued and return postage shall be prepaid on all return envelopes.

(6) No person other than the ballot holder and his clerks may be present at the issue of ballot papers, unless permitted by the ballot holder to attend.

Spoilt ballot papers

11.—(1) If a voter has inadvertently dealt with that person’s ballot paper in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) that person may return (either by hand or by post) to the ballot holder the spoilt ballot paper.

(2) On receipt of the spoilt ballot paper, the ballot holder shall issue another ballot paper, except where the spoilt ballot paper is received later than 3 working days before the day of the ballot.

(3) The spoilt ballot paper shall be immediately cancelled.

(4) Where a voter applies in person, the ballot holder may hand a replacement ballot paper to that person instead of delivering it in accordance with paragraph 10.

Lost ballot papers

12.—(1) Where a voter has not received a ballot paper by the fourth working day before the day of the ballot, that person may apply (whether or not in person) to the ballot holder for a replacement ballot paper.

(2) Such an application shall include evidence of the voter’s identity.

(3) Where the application is received by the ballot holder not later than 3 working days before the day of the ballot and the ballot holder—

(a) is satisfied as to the voter’s identity; and

(b) has no reason to doubt that the voter did not receive the original ballot paper;

the ballot holder shall issue another ballot paper.

(4) Where a ballot voter applies in person, the ballot holder may hand a replacement ballot paper to that person instead of delivering it in accordance with paragraph 10.

Receipt of return ballot papers

13.—(1) A postal ballot paper shall not be taken to be duly returned unless it is received by the ballot holder (either by hand or by post) or at any place for delivery specified in the notice of ballot as being a place of delivery before 5pm on the day of the ballot.

(2) On receipt of a returned ballot paper the ballot holder shall arrange for it to be kept in a secure receptacle until the votes are counted.

(3) No person other than the ballot holder and his clerks may be present at the receipt of the ballot papers, unless permitted by the ballot holder to attend.

The count

14.—(1) As soon as practicable after the day of the ballot, the ballot holder shall make arrangements for counting the votes cast on such of the ballot papers as have been duly returned (in accordance with paragraph 13(1)) and record the number counted.

(1) 2011 c. 5.

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(2) No person other than the ballot holder and the ballot holder's clerks may be present at the counting of the votes, unless permitted by the ballot holder to attend.

Rejected ballot papers

15.—(1) Where a ballot paper is received which bears the same number or barcode as a ballot paper already received, both that ballot paper and the other ballot paper bearing the same number or barcode (as the case may be) shall be void and not counted.

(2) Any ballot paper which is unsigned, unmarked or void for uncertainty shall, subject to sub-paragraph (3), be void and not counted.

(3) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place; or
- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

shall not for such reason be deemed to be void if the voting intention appears clear.

Decisions on ballot papers

16. The decision of the ballot holder on any question arising in respect of a ballot paper shall be final.

Declaration of result

17.—(1) The ballot holder shall certify—

- (a) the total number of votes cast in the ballot excluding any votes given on ballot papers rejected under paragraph 15;
- (b) the aggregate rateable value of each hereditament in respect of which a person voted in the ballot;
- (c) the total number of votes cast in favour of the question asked in the ballot; and
- (d) the aggregate rateable value of each hereditament in respect of which a person voting in the ballot has voted in favour of the question asked.

(2) The ballot holder, having made the certification under sub-paragraph (1), shall—

- (a) forthwith make a declaration of the matters so certified; and
- (b) as soon as reasonably practicable give public notice of the matters so certified.

Validity

18.—(1) No BRS-BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, shall be declared invalid by reason of any act or omission of the ballot holder or any other person in breach of the provisions of this Schedule, if it appears to a court considering the question that—

- (a) the BRS-BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, was so conducted as to be substantially in accordance with the provisions of this Schedule; and
- (b) the act or omission did not affect its result.

(2) A BRS-BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, unless proceedings are started in relation to it before the commencement date of the BRS-BID arrangements, renewed BRS-BID arrangements or altered BRS-BID arrangements (as the case may be), shall be deemed to have been to all intents a good and valid ballot.

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Retention of ballot papers

19. The ballot holder shall retain the ballot papers for six months after the day of the ballot and then, unless otherwise directed by order of the High Court, shall cause them to be destroyed.