



# Business Improvement Districts Act (Northern Ireland) 2013

CHAPTER 5

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# Business Improvement Districts Act (Northern Ireland) 2013

## 2013 CHAPTER 5

An Act to make provision for business improvement districts and for connected purposes. [21st March 2013]

**B**E IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### *BID arrangements*

#### **Arrangements with respect to business improvement districts**

**1.**—(1) A district council may, in accordance with this Act, make arrangements (“BID arrangements”) with respect to an area (a “business improvement district”) comprising all or part of the district of the council.

(2) A business improvement district may comprise areas which are not adjacent to each other.

(3) The purpose of BID arrangements is to enable—

- (a) the projects specified in the arrangements to be carried out for the benefit of the business improvement district or those who live, work or carry on any activity in the district, and
- (b) those projects to be financed (in whole or in part) by a levy (“BID levy”) imposed on the eligible ratepayers, or a class of such ratepayers in the district.

#### **Joint arrangements**

**2.**—(1) The Department may by regulations make provision for or in connection with enabling two or more district councils to make BID arrangements with respect to a business improvement district comprising all or part of the district of each of the councils.

(2) The provision which may be made by regulations under subsection (1) includes provision which modifies any provision made by or under this Act in its application to such arrangements.

#### **Additional contributions and action**

**3.**—(1) The persons specified in subsection (2) may make financial contributions or take action for the purpose of enabling the projects specified in BID arrangements to be carried out.

(2) Those persons are—

- (a) the district council which has made the arrangements, and
- (b) any other person authorised or required to do so in accordance with the arrangements.

#### **Duty to comply with arrangements**

**4.** Where BID arrangements are in force, the district council which made the arrangements must comply with them.

#### *Procedure*

#### **BID proposals**

**5.**—(1) BID arrangements are not to come into force unless proposals for the arrangements (“BID proposals”) are approved by a ballot.

(2) The Department may by regulations make provision—

- (a) as to the persons who may draw up BID proposals,
- (b) as to consultation on BID proposals,
- (c) as to other procedures to be followed in connection with the drawing up of BID proposals,
- (d) as to the matters to be included in BID proposals,
- (e) as to the date which may be provided under BID proposals for the coming into force of BID arrangements which give effect to the proposals,
- (f) as to—
  - (i) the disclosure for the purposes of BID proposals of information held by the Department of Finance and Personnel in connection with its functions relating to rating of hereditaments,
  - (ii) the use to which such information may be put, and
  - (iii) the creation of offences and penalties in connection with any unauthorised disclosure of such information.

#### **Entitlement to vote in ballot**

**6.**—(1) Entitlement to vote in a ballot held for the purposes of section 5(1) is to be determined in accordance with this section.

(2) When submitting BID proposals to the district council, those who have drawn up the proposals are also to submit a statement as to which eligible ratepayers are to be entitled to vote in the ballot.

(3) In this Act “eligible ratepayer” means a person who on the prescribed date occupies or is entitled to possession of relevant property, whether or not rates are payable by that person in respect of it.

(4) In this section and in section 12 “relevant property” means a hereditament which is—

- (a) within the business improvement district; and
- (b) included in the NAV list.

(5) In this section and in section 7 “NAV list” has the same meaning as in the Rates Order.

### **Approval in ballot**

7.—(1) BID proposals are not to be regarded as approved by a ballot held for the purposes of section 5(1) unless four conditions are satisfied.

(2) Except where section 8 applies, the four conditions are those set out in subsections (3), (4), (5) and (6).

(3) The first condition is that the number of votes cast in favour of the BID proposals exceeds the number of votes cast against those proposals.

(4) The second condition is that A exceeds B.

(5) The third condition is that at least 25% of the eligible ratepayers entitled to vote in the ballot have done so.

(6) The fourth condition is that the total of A plus B is equal to 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 in the ballot.

(7) “A” is the aggregate of the net annual values of the hereditaments in respect of which an eligible ratepayer voting in the ballot has voted in favour of the BID proposals.

(8) “B” is the aggregate of the net annual values of the hereditaments in respect of which an eligible ratepayer voting in the ballot has voted against the BID proposals.

(9) For the purposes of subsections (6), (7) and (8), the net annual value of a hereditament is that shown in the NAV list on the day of the ballot.

(10) In this section “net annual value” has the same meaning as in the Rates Order.

### **Approval in ballot - alternative conditions**

8.—(1) This section applies where the persons who have drawn up the BID proposals so specify when submitting those proposals to the district council in advance of a ballot being held for the purposes of section 5(1).

(2) Section 7(1) has effect in respect of that ballot subject to either or both of the following—

- (a) the substitution of the condition set out in subsection (3) for that set out in subsection (3) of section 7,
- (b) the substitution of the condition set out in subsection (4) for that set out in subsection (4) of section 7.

(3) The condition is that the number of votes cast in favour of the BID proposals must exceed the number of votes cast against those proposals by such number or percentage as may be specified by the persons who have drawn up the BID proposals.

(4) The condition is that A must exceed B by such amount or percentage as may be specified by the persons who have drawn up the BID proposals.

(5) In subsection (4), “A” and “B” have the same meanings as in subsections (7) and (8) of section 7.

### **Power of veto**

**9.**—(1) This section applies where a ballot is to be held for the purposes of section 5(1).

(2) By such date prior to the date of the ballot as may be prescribed, the district council to which the BID proposals relate is to give to—

- (a) the persons who have drawn up the proposals, and
- (b) the Department,

notice that the council is or is not vetoing the proposals.

(3) The council may veto proposals only in prescribed circumstances and is not entitled to do so after the date prescribed for the purposes of subsection (2).

(4) Where the district council has vetoed the BID proposals, no ballot may be held.

(5) In deciding whether to exercise the veto, the district council is to have regard to such matters as may be prescribed.

(6) A notice under subsection (2) vetoing the BID proposals must—

- (a) set out the reasons for the exercise of the veto, and
- (b) give details of the right of appeal under section 10.

(7) Any other notice under subsection (2) must set out the reasons for not exercising the veto.

### **Appeal against veto**

**10.**—(1) Where a district council vetoes BID proposals, any eligible ratepayer who was entitled to vote in the ballot may appeal to the Department.

(2) The Department may by regulations make provision in relation to appeals under this section, including provision—

- (a) as to the time by which an appeal is to be made,
- (b) as to the manner in which an appeal is to be made,
- (c) as to the procedure to be followed in connection with an appeal, and
- (d) as to the matters to be taken into account in deciding whether to allow an appeal.

### **Commencement of BID arrangements**

**11.**—(1) This section applies where BID proposals are approved by a ballot held for the purposes of section 5(1).

(2) The district council concerned must ensure that BID arrangements which give effect to the proposals are made by the time the arrangements are to come into force in accordance with this section.

(3) The BID arrangements are to come into force on such day as may be provided under the BID proposals.

#### *BID levy*

#### **Imposition and amount of BID levy**

**12.**—(1) A BID levy is to be imposed only for periods falling within the period in which the BID arrangements are in force and any references in this section and section 13 to “chargeable periods” are to those periods.

(2) The length of any chargeable period, and the day on which it begins, must be specified in the BID proposals.

(3) The calculation of BID levy for any chargeable period must be specified in the BID proposals and the amount of the BID levy for such chargeable period is to be calculated in such manner as provided for in the BID arrangements.

(4) BID levy provided for in BID proposals may be different for different classes of—

- (a) eligible ratepayer;
- (b) geographical area within the business improvement district; or
- (c) relevant property (within the meaning of section 6(4)),

or any combination of these different classes.

(5) The provision in BID proposals for calculation of BID levy for any chargeable period must include a statement of whether any of the costs incurred in developing the BID proposals, or holding of the ballot are to be recovered through BID levy.

#### **Liability and accounting for BID levy**

**13.**—(1) BID proposals must specify the description of eligible ratepayers in the business improvement district who are to be liable for BID levy for a chargeable period.

(2) An eligible ratepayer is to pay a levy for a chargeable period if that ratepayer falls within that description at any time within the period.

(3) The amount of an eligible ratepayer’s liability for BID levy for any chargeable period is to be determined in accordance with the BID arrangements.

(4) Any amount of BID levy for which an eligible ratepayer is liable is to be paid to the district council which made the arrangements.

#### *Administration etc.*

#### **BID Revenue Account**

**14.**—(1) A district council which has made BID arrangements must, in accordance with proper practices, keep an account, to be called the BID Revenue Account.

(2) Amounts paid to the council for the purpose of enabling the projects specified in the BID arrangements to be carried out must be credited to the BID Revenue Account.

(3) Amounts are to be debited to the BID Revenue Account only in accordance with BID arrangements.

(4) The Department may by regulations make further provision in relation to the BID Revenue Account.

#### **Administration of BID levy etc.**

**15.** The Department may by regulations make provision with respect to the imposition, administration, collection, recovery and application of BID levy.

#### *Miscellaneous*

#### **Duration of BID arrangements etc.**

**16.—**(1) BID arrangements are to have effect for such period (not exceeding 5 years) as may be specified in the arrangements.

(2) BID arrangements may be renewed for one or more periods each of which must not exceed 5 years, but only if the renewal of the arrangements on that or each occasion is approved by a ballot.

(3) The renewal of BID arrangements is not to be regarded as approved by a ballot held for the purposes of subsection (2) unless the conditions which applied to the approval of the BID proposals (by virtue of section 7 and, where relevant, section 8) are satisfied in relation to the renewal of the arrangements.

(4) The Department may by regulations make provision—

- (a) as to the alteration of BID arrangements, and
- (b) as to the termination of BID arrangements.

(5) The provision which may be made by virtue of subsection (4)(a) or (b) includes provision preventing or restricting the alteration or early termination of BID arrangements.

(6) Nothing in subsection (5) is to be taken as limiting the power conferred by subsection (4).

#### **Regulations about ballots**

**17.—**(1) The Department may by regulations make provision in relation to ballots.

(2) The provision which may be made by regulations under subsection (1) includes provision—

- (a) as to the timing of ballots,
- (b) as to the eligible ratepayers entitled to vote in a ballot,
- (c) as to the question or questions to be asked in a ballot,
- (d) as to the allocation of votes to those eligible ratepayers entitled to vote in a ballot,
- (e) as to the form that ballots may take,

- (f) as to the persons who are to hold ballots,
- (g) as to the conduct of ballots,
- (h) conferring power on the Department to declare ballots void in cases of material irregularity,
- (i) for or in connection with enabling a district council to recover the costs of a ballot from such persons and in such circumstances as may be prescribed.

(3) Nothing in subsection (2) is to be taken as limiting the power conferred by subsection (1).

(4) In this section “ballot” means a ballot held for the purposes of section 5(1) or 16(2).

#### **Power to make further provision**

**18.**—(1) The Department may by regulations make such supplementary, incidental, consequential or transitional provision as it considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision made by or under this Act.

(2) The provision which may be made under subsection (1) includes provision which amends any statutory provision.

#### **Further provision as to regulations**

**19.**—(1) Subject to subsection (2), regulations made under this Act are subject to negative resolution.

(2) Regulations to which this subsection applies may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.

(3) Subsection (2) applies to regulations which include provision under—

- (a) section 5(2)(f)(iii);
- (b) section 6(3);
- (c) section 9(3);
- (d) section 17(2)(b);
- (e) section 2(1) where that provision modifies any provision made by or under this Act; and
- (f) section 18(1) where that provision amends any statutory provision.

#### **Crown application**

**20.** This Act binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

#### **Interpretation**

**21.**—(1) In this Act—

- “BID arrangements” has the meaning given by section 1;
- “BID levy” has the meaning given by section 1;
- “BID proposals” has the meaning given by section 5;

“business improvement district” has the meaning given by section 1;  
“the Department” means the Department for Social Development;  
“eligible ratepayer” has the meaning given by section 6;  
“hereditament” has the same meaning as in the Rates Order;  
“prescribed” means prescribed by regulations made by the Department;  
“the Rates Order” means the Rates (Northern Ireland) Order 1977; and  
“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(2) Any reference to “BID proposals” in this Act includes proposals in relation to the renewal or alteration of BID arrangements under section 16 or by virtue of regulations made under that section.

(3) Any reference to “BID arrangements” in this Act includes BID arrangements as renewed or altered under section 16 or by virtue of regulations made under that section.

### **Short title**

**22.** This Act may be cited as the Business Improvement Districts Act (Northern Ireland) 2013.

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