EXECUTIVE NOTE

THE BUSINESS IMPROVEMENT DISTRICTS (BALLOT ARRANGEMENTS) (SCOTLAND) REGULATIONS 2007 (S.S.I. 2007/261)

The above instrument is laid in exercise of the powers conferred by section 40(9) and (10) of the Planning etc. (Scotland) Act 2006 and by all other enabling powers. The instrument is subject to the draft affirmative 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 an agreed increase in business rate payments.

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. Draft BIDs (Scotland) Regulations 2007 have been consulted upon and are, in terms of the 2006 Act, subject to negative resolution procedure, and shall be presented within this session of Parliament. A Section 104 Order under the Scotland Act 1998 is also proposed to be laid at Westminster in this session of Parliament. This Order is required to allow the BID Body (or BID Board) to propose a levy from local business to implement BID proposals - the levy shall be a local tax which does not fund local authority expenditure, which is a reserved subject matter for Westminster.

The Vote (Non Domestic Ratepayers only)

There will be a single vote attached to each business for which non domestic rates are paid in the BID area, and where an individual is the non domestic ratepayer for more than one business, that individual shall be eligible to cast more than one vote. This approach reflects the interests of small businesses and recognises the additional levies that those occupiers shall pay towards the BID. The second element of any ballot is the Rateable Value (RV) of businesses in the BID area. The RV of each business which attracts non domestic rates and for which a “yes” vote for the proposal is received is compared to the sum of the rateable value of all “no” votes against the proposal.

A successful ballot will, therefore, have had to meet two tests. First, a simple majority of votes cast and, secondly, those votes cast in favour must represent a majority by RV of the properties of those voting. This dual mechanism ensures that a small number of large businesses cannot force through a measure that small businesses do not support and vice versa. BID Bodies will have the discretion to set higher thresholds than those in the legislation if they think it appropriate for their area.

The Vote: Non Domestic Ratepayers and Owners or Tenants (those with a long term lease)

This Order is in respect of the separate voting system which exists where non domestic ratepayers and owners are involved. A two part system again applies, involving numbers of votes cast in part 1 of the ballot and total RVs in part 2. The same procedure as above applies in respect of the number of votes which non domestic ratepayers cast. However, an owner or tenant is eligible to vote only once, irrespective of the numbers of properties that they may own or for which they are the tenant. This prevents owners or tenants who attract a large RV across the BID area having a disproportionate impact.

In part 2 of the vote where RV matters, two further factors must be taken into account. First, the requirement for the total RV of each property to be shared between the non domestic ratepayer of the property and the eligible owner or tenant of the same property. Secondly, the anticipated benefit that non domestic ratepayers or owners or tenants are each expected to receive from the outcome of the BID. This benefit, decided by the BID proposer, is specified in the proposals prior to the BID ballot. If BID is likely to benefit owners or tenants more than non domestic ratepayers, their weighted share of the total RV vote will be greater, and vice versa. The RV of each property is divided on the basis of the agreed proportion (say 75%/25%). The total RV votes apportioned to non domestic ratepayers and owners or tenants are cast for or against the proposal and then counted. Whichever total of RVs is greater determines the second part of the ballot.

Both Part 1 and part 2 of the Vote must be in favour of the ballot for the proposals to go ahead.

The ballot system allows for the situation where an individual is both a ratepayer and an owner or tenant. It does so by separating out the different categories of such a vote. If someone is both the ratepayer and eligible tenant or owner of a property, votes "yes" for the proposals, the relevant proportion of the RV for the ratepayer, say 75%, is added to the RV of all other ratepayers who have voted "yes", and the complementary 25% of the RV of the same property is added to the total RV for tenants and owners who have also voted "yes" for the proposal. In this way, 100% of the RV is allocated to the "yes" vote.

The voting approach described is based upon the method proposed by the BIDs Working Group and developed to allow for the actual involvement of tenants or owners.

Policy Objectives

The purpose of the instrument is to define the arrangements in a BID ballot where non domestic ratepayers and (should the BID body decide) owners or tenants vote on proposals to introduce works or services payable through a BIDs levy. The BIDs levy will most commonly be a percentage related to the Rateable Value of the properties in the BID area.

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 "Partnership Agreement" contains a commitment to "work with local authorities to establish Business Improvement Districts."

An important key difference between Scottish and English and Welsh policy is the involvement of property owners and tenants, beyond ratepayers. The BIDS Working Group in Scotland and other stakeholders indicated their strong support for the inclusion of property owners, largely because the benefits of a successful BID will be felt by owners as well as occupiers. The proposal was included in the consultation process on secondary legislation and a majority of responses backed the proposal across both businesses and local authorities. Property owners or those with longer leases are likely to be substantial beneficiaries of any successful BID project through, for example, improved rental values and reduction in vacancy rates. The BID proposer can opt not to involve owners.

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 order was issued on 21st December 2006 to Scottish Local Authorities, business contacts, relevant public bodies (including the Association of Electoral Administrators and Institute or 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. One consultee responded that the ballot arrangements are complex and might prevent owners or tenants from being invited to participate.

Financial Effects

The instrument will have no financial implications on the Scottish Executive.

Scottish Executive Finance and Central Services Department
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