*Draft Regulations laid before Parliament under section 150(6) of the Local Government and Housing Act 1989 and section 29(4) of the Business Rate Supplements Act 2009, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

# 2014 No.

# LOCAL GOVERNMENT, ENGLAND

## The Business Improvement Districts (Property Owners) (England) Regulations 2014

*Made - - - -* ***

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 150(1), (2) and (3) of the Local Government and Housing Act 1989(**a**) and section 29(3) of, and paragraphs 2(7), 5(5) to (8), 7(2) and (3), 8 and 10 of Schedule 2 to, the Business Rate Supplements Act 2009(**b**).

The Secretary of State has consulted such representatives of local government as appear to him to be appropriate.

Pursuant to section 150(6) of the Local Government and Housing Act 1989 and section 29(4) of the Business Rate Supplements Act 2009, a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

### Citation, commencement and application

**1.**—(1) These Regulations may be cited as the Business Improvement Districts (Property Owners) (England) Regulations 2014 and come into force on the day after the day on which they are made.

(2) These Regulations apply in relation to England only.

### Interpretation

**2.** In these Regulations—

"the 1988 Act" means the Local Government Finance Act 1988(**c**);

"the 2009 Act" means the Business Rate Supplements Act 2009;

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(**a**) 1989 c. 42.
(**b**) 2009 c. 7.
(**c**) 1988 c. 41; relevant amendments were made by the Local Government Finance Act 1992 (c. 14), section 104 and Schedule 10; by the Local Government and Housing Act 1989, section 139 and Schedule 5 and by the Local Government Act 2003 (c. 26), section 66.

"the 1989 Regulations" means the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(**a**) as modified by paragraph 9 of Schedule 4 below;

"alteration ballot" has the meaning given in regulation 19;

"alteration proposals" means proposals in relation to the alteration of BRS-BID arrangements pursuant to regulation 19;

"the amount payable" 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 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 2003 Act by virtue of that person falling within the description of persons liable to the BRS-BID levy in the BRS-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" has the meaning given in regulation 7;

"barcode" means marks—

(a) appearing on the ballot paper and containing in an encoded form information relating to a voter and a 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 revenue account" means the revenue account kept by a billing authority under section 47(1) of the 2003 Act(**b**) for the purposes of BID arrangements;

"BRS-BID ballot" means a ballot under paragraph 5 of Schedule 2 to the 2009 Act;

"BRS-BID body" means, where a local authority BRS-BID body is not responsible for implementing the BRS-BID arrangements, the body (whether corporate or not corporate) responsible for the implementation of the arrangements;

"BRS-BID proposer" means a person or body referred to in regulation 4(1), other than a relevant billing authority;

"chargeable period" means any period for which BRS-BID levy is imposed which is specified in accordance with paragraph 3(2) of Schedule 2 to the 2009 Act;

"commencement date" subject to regulation 11(2), means the day, pursuant to section 53 of the 2003 Act, the BRS-BID arrangements are to come into force;

"in data form" means in a form which ensures that the information is capable of being processed by means of equipment operating automatically in response to instructions given for that purpose;

"the day of the ballot" means the day determined by the ballot holder, in accordance with Schedule 2, as the day by which ballot papers must be returned to him;

"demand notice" means the notice required to be served under paragraph 2(1) of Schedule 4;

"electronic communication" 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 an electronic communications service (within the meaning of the Communications Act 2003(**c**)); or

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

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(**a**) S.I 1989/1058, relevant amendments were made by S.I. 2010/752.

(**b**) The Local Government Act 2003 (c. 26) - see paragraph 11 of Schedule 2 to the Business Rate Supplements Act 2009 for meaning of "the 2003 Act"

(**c**) 2003 c. 21. Relevant amendments were made by S.I. 2011/1210.

"geographical area of the BID" means the geographical area of the business improvement district in respect of which the BRS-BID arrangements are proposed or made;

"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(**a**) of the 1988 Act including any hereditament to which regulation 6 of the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989(**b**) applies but otherwise excluding any hereditament to which regulations made under section 64(3)(b) of the 1988 Act apply;

"joint BRS-BID arrangements" has the meaning given in regulation 22;

"liability order" has the meaning given in regulation 10 of the 1989 Regulations;

"local authority BRS-BID body" 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(**c**)) is responsible for implementing the BRS-BID arrangements, that person;

"person entitled to vote" has the meaning given in regulation 9;

"re-ballot" means a BRS-BID ballot, renewal ballot, or alteration ballot, as the case may be, which is required to be arranged pursuant to regulation 11(10);

"relevant billing authority" means the billing authority for the geographical area of the BID;

"relevant property interest" has the same meaning as paragraph 2(6) of Schedule 2 to the 2009 Act;

"renewal ballot" means a ballot under section 54(2) of the 2003 Act;

"renewal proposals" means proposals in relation to the renewal of the BRS-BID arrangements under section 54(2) of the 2003 Act;

"veto" means a veto by the relevant billing authority pursuant to paragraph 7(2) of Schedule 2 to the 2009 Act;

"veto notice" means a notice given by a billing authority pursuant to section 51(4) of the 2003 Act;

"voter list" has the meaning given in regulation 13; and

"working day" 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(**d**).

**Prescribed relevant property interests**

**3.** The following descriptions of interest in a hereditament are prescribed for the purposes of paragraph 2(6) of Schedule 2 to the 2009 Act—

(a) freehold;

(b) leasehold;

(c) commonhold.

**BRS-BID proposer**

**4.**—(1) The following persons may draw up BRS-BID proposals—

(a) any person who, on the date he sends BRS-BID proposals to the relevant billing authority under regulation 6—

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(**a**) Relevant amendments to section 64 were made by the Local Government and Housing Act 1989 (c. 42), section 139 and Schedule 5; the Local Government Finance Act 1992 (c. 14), section 104 and Schedule 10; the Local Government and Rating Act 1997 (c. 97 ), section 3 and Schedule 3; the Local Government Act 2003, section 66.

(**b**) S.I. 1989/1060 amended by S.I. 1989/2303.

(**c**) Section 68 was repealed by the Local Government and Public Involvement in Health Act 2007 (c. 28), sections 216 and 241 and Schedule 18, from a date to be appointed. It was amended by S.I. 2007/2194, 2008/948 and 2009/1941.

(**d**) 1971 c. 80.

(i) is a person with a relevant property interest in relation to a hereditament situated in the area to be comprised in such proposals; or

(ii) is a body (whether corporate or not corporate) one of whose purposes is developing BRS-BID proposals; and

(b) the relevant billing authority.

(2) Subject to paragraph (3), a BRS-BID proposer shall, at least 84 days before sending the notice required under regulation 5(2)(a)(ii), notify the relevant billing authority and the Secretary of State in writing of the proposer's intention of asking the relevant billing authority to put the BRS-BID proposals to a ballot.

(3) Where a relevant billing authority draws up BRS-BID proposals, it shall, at least 84 days before instructing the ballot holder to hold a BRS-BID ballot, notify the Secretary of State of its intention to do so.

**BRS-BID proposals, renewal proposals, alteration proposals and preliminary procedures**

**5.**—(1) BRS-BID proposals, renewal proposals or alteration proposals, shall include the matters mentioned in paragraphs 1, 2 and 3 of Schedule 1 as the case may be.

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

(a) send to the relevant billing authority—

(i) a copy of the BRS-BID proposals, alteration proposals or renewal proposals, as the case may be, together with a summary of—

(aa) the consultation it has undertaken with those persons who are to be liable for the proposed BRS-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 BRS-BID arrangements, the predicted budget over the duration of the BRS-BID arrangements and the contingency margin included in the budget); and

(cc) the financial management arrangements for the BRS-BID body, and the arrangements for periodically providing the relevant billing authority with information on the finances of the BRS-BID body; and

(ii) a notice in writing requesting the relevant billing authority to instruct the ballot holder to hold a BRS-BID ballot in relation to the BRS-BID proposals, an alteration ballot in relation to the alteration proposals or a renewal ballot in relation to the renewal proposals, 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 BRS-BID proposer or, as the case may be, the BRS-BID body, has sufficient funds to meet the costs of the BRS-BID ballot, the alteration ballot, the renewal ballot, or the re-ballot in relation to the BRS-BID ballot, the alterations ballot, or the renewal ballot, as the case may be, should it be required to do so under regulation 12.

(3) Where a relevant billing authority draws up BRS-BID proposals, it shall prepare a document setting out 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 BRS-BID arrangements and the contingency margin included in the budget).

(4) Where—

(a) a BRS-BID proposer or a relevant billing authority decides to seek approval of BRS-BID proposals in a BRS-BID ballot;

(b) a BRS-BID body or a local authority BRS-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 shall send a copy of the BRS-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 BRS-BID levy who requests a copy.

(5) Where the relevant billing authority is of the view that the BRS-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 shall, as soon as reasonably practicable after receiving the proposals, notify the BRS-BID proposer or BRS-BID body, as the case may be, in writing explaining the nature of that conflict.

**Instructions to hold a BRS-BID ballot, renewal ballot, alteration ballot or re-ballot**

**6.**—(1) Where the relevant billing authority—

(a) subject to paragraph (2), receives a notice pursuant to regulation 5(2)(a)(ii);

(b) in the case where a local authority BRS-BID body is responsible for implementing the BRS-BID arrangements, decides to seek approval of alteration proposals or renewal proposals, as the case may be;

(c) receives a notification from the Secretary of State under regulation 11(10) requiring it to arrange a re-ballot; or

(d) decides to seek approval of BRS-BID proposals which it has drawn up,

it shall instruct the ballot holder to hold a BRS-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 pursuant to regulation 5(2)(a)(ii), it shall not be required to instruct the ballot holder under paragraph (1) until such time as the BRS-BID proposer or BRS-BID body, as the case may be, complies with the requirements of regulation 5(1) and (2).

(3) As soon as practicable after instructing the ballot holder to hold a ballot, the billing authority shall give written notice that it has done so to the person who draws up the BRS-BID proposals, the BRS-BID body or the local authority BRS-BID body, as the case may.

**Ballot holder**

**7.**—(1) The person who holds a BRS-BID ballot, renewal ballot, alteration ballot or re-ballot ("the ballot holder") shall be the person the relevant billing authority has appointed under section 35 of the Representation of the People Act 1983(**a**) as the returning officer for elections to that authority.

(2) The ballot holder may appoint one or more persons to discharge all or any of the ballot holder's functions under these Regulations.

**Arrangements for holding a ballot and conduct of a ballot**

**8.** On receipt of an instruction under regulation 6, the ballot holder shall make arrangements for conducting a BRS-BID ballot, alteration ballot, renewal ballot or re-ballot, as the case may be, in accordance with Schedule 2.

**Persons entitled to vote**

**9.**—(1) A person shall be entitled to vote in a BRS-BID ballot, an alteration ballot or a re-ballot in respect of a BRS-BID ballot or an alteration ballot if, on the date the ballot holder publishes the notice under paragraph 3(a) of Schedule 2, that person—

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(**a**) 1983 c. 2. Relevant amendments were made by the Local Government Act 1985 (c. 51 ), sections 18, 19, and 102 and Schedules 9, 16 and 17; by the Education Reform Act 1988 (c. 40), section 237 and Schedule 13; and by the Greater London Authority Act 1999 (c. 29), section 17 and Schedule 3.

(a) falls within the class of relevant property owners to be liable for the BRS-BID levy described in the BRS-BID proposals or the alteration proposals, as the case may be; and

(b) appears on the voter list.

(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, that person—

(a) falls within the class of relevant property owners who on that date are liable for the BRS-BID levy; and

(b) appears on the voter list.

**Approval in ballot**

**10.**—(1) For the purposes of paragraph 5(5) of Schedule 2 to the 2009 Act, "A" is calculated by aggregating the rateable values of each hereditament in respect of which a person voted in the BRS-BID ballot.

(2) For the purposes of paragraph 5(6) of that Schedule, "B" is calculated by aggregating the rateable values of each hereditament in respect of which a person voted in the BRS-BID ballot.

(3) For the purposes of paragraphs (1) and (2), in any case where more than one person votes in the BRS-BID ballot in respect of the same hereditament, the rateable value attributable to that hereditament, as respects each person voting in the BRS-BID ballot, is its rateable value divided by the total number of such persons.

**Declaring a ballot void**

**11.**—(1) Subject to paragraph (3), the Secretary of State may declare void a BRS-BID ballot, renewal ballot, alteration ballot or re-ballot if it appears to him 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 Secretary of State's opinion, means it is likely that voting in the BRS-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 BRS-BID ballot and, in the Secretary of State's opinion, it is likely that the result of the BRS-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 Secretary of State's opinion, it is likely that the result of the BRS-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 pursuant to 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 Secretary of State to exercise his powers under this regulation, specifying the reason for the request.

(4) The persons mentioned in paragraph (3) are—

(a) the BRS-BID proposer or the BRS-BID body;

(b) at least 5% of the number of persons entitled to vote in the BRS-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 Secretary of State shall notify the following persons in writing that he has received the request and send a copy to each of them—

(a) the relevant billing authority;

(b) the BRS-BID proposer or the BRS-BID body, as the case may be;

(c) the complainant, unless the complainant is a person described in sub-paragraph (a) or (b).

(6) Where two or more requests relate to the same ballot, the Secretary of State may decide those requests together.

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

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

(10) The Secretary of State shall notify the complainant, the relevant billing authority and the BRS-BID proposer or the BRS-BID body, as the case may be, in writing of his decision and where he declares void a BRS-BID ballot, renewal ballot, alteration ballot or re-ballot, he shall 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 Secretary of State declares void a BRS-BID ballot, a renewal ballot, an alteration ballot or a re-ballot in relation to such a ballot and he is of the opinion that the material irregularity was caused by the actions or omissions of the BRS-BID proposer or BRS-BID body, as the case may be, he shall issue a notice in writing to that effect with his decision notice and, he shall include in the notice an explanation of the effect of regulation 12.

(12) Where the Secretary of State declares void a BRS-BID ballot, a renewal ballot, an alteration ballot or a re-ballot in relation to such a ballot—

(a) the BRS-BID arrangements, the renewed BRS-BID arrangements or the alterations to the BRS-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 BRS-BID arrangements, the renewed BRS-BID arrangements or the alterations to the BRS-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) shall be no later than a year after the date the notice of the result is published pursuant to paragraph 17 of Schedule 2.

**Payment of costs of a ballot**

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

(a) the proposals were not approved in the ballot; or

(b) the Secretary of State issues a notice under regulation 11(11) in relation to the ballot.

(2) Where paragraph (1) applies the relevant billing authority may require the BRS-BID proposer or the BRS-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 pursuant to regulation 21.

**Voter list and other information**

**13.**—(1) As soon as practicable after the ballot holder is instructed to hold a ballot under regulation 6(1), the person who draws up the BRS-BID proposals shall—

(a) prepare a document ("the voter list") showing (as far as reasonably practicable) the name and address of each person entitled to vote in the BRS-BID ballot and the address and rateable value of each hereditament to which that person's relevant property interest relates;

(b) provide a copy of the voter list in data form to the ballot holder as soon as practicable after the ballot holder is instructed;

(c) unless the relevant billing authority has drawn up the proposals, send a copy of the voter list in data form to the relevant billing authority; and

(d) make available for inspection by any person a copy of the voter list at premises within the geographical area of the BID.

(2) On receiving a request made in accordance with paragraph (3) from any person who, or any group of persons which, represents 5% or more of the persons who are eligible to vote in the BRS-BID ballot the person who draws up the BRS-BID proposals shall supply a copy of the voter list to the person or group of persons concerned in data form.

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

(a) be made in writing;

(b) identify the BRS-BID ballot in relation to which the request is made; and

(c) confirm that the person or group of persons making the request intends to make use of the voter list only for the purpose of canvassing persons entitled to vote in the BRS-BID ballot identified in the request made pursuant to paragraph (2).

(4) The relevant billing authority shall supply to the ballot holder any information the ballot holder requires for the purposes of carrying out the ballot holder's functions under these Regulations.

(5) This regulation applies in relation to an alteration ballot or renewal ballot as if—

(a) any reference to a BRS-BID ballot were a reference to an alteration ballot or renewal ballot, as the case may be;

(b) any reference to the person who draws up the BRS-BID proposals were a reference to the BRS-BID body or local authority BRS-BID body, as the case may be.

**Veto of BRS-BID proposals**

**14.**—(1) For the purposes of paragraph 7(2) of Schedule 2 to the 2009 Act, the prescribed circumstances are that the relevant billing authority is of the opinion that—

(a) the BRS-BID arrangements are likely 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) the BRS-BID arrangements are likely to be a significantly disproportionate financial burden on any person or class of persons (as compared to the other persons with a relevant property interest 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 BRS-BID levy; and

(ii) that burden is inequitable; or

(c) the BRS-BID proposer has failed to comply with the duty imposed by regulation 13(1)(a).

(2) For the purposes of paragraph 7(2) of Schedule 2 to the 2009 Act, the prescribed period is 14 working days beginning with the day after the day of the ballot.

(3) For the purposes of paragraph 7(3) of Schedule 2 to the 2009 Act, the prescribed matters to which the relevant billing authority shall have regard in deciding whether to exercise its veto are—

(a) the level of support (as evidenced by the result of the BRS-BID ballot or re-ballot of a BRS-BID ballot, as the case may be) for the BRS-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 BRS-BID levy and how the financial burden of the BRS-BID is to be distributed amongst persons with a relevant property interest in the geographical area of the BID;

(d) the extent to which the BRS-BID proposer discussed the BRS-BID proposals with the authority before submitting the BRS-BID proposals to the authority under regulation 5;

(e) the cost incurred by any person up to the end of the period prescribed in paragraph (2) in developing the BRS-BID proposals and canvassing in relation to the BRS-BID proposals; and

(f) the nature and extent of the failure referred to in paragraph (1)(c).

**Appeal against veto**

**15.**—(1) A person ("the appellant") who wishes to appeal against a veto shall serve on the Secretary of State, within 28 days of the veto notice being given by the relevant billing authority, a notice in writing ("the appeal notice") accompanied by a statement of the reasons for which the appeal is made.

(2) On receipt of the appeal notice the Secretary of State shall—

(a) notify the appellant and the relevant billing authority, in writing, that he 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 Secretary of State may decide those appeals together.

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

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

(6) A copy of the representations made by one party to the appeal shall be sent by the Secretary of State to the other parties to the appeal and shall 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 Secretary of State further written representations in reply and the Secretary of State shall send a copy of any such further representations to the other parties to the appeal.

(8) In deciding whether to allow an appeal, the Secretary of State shall take into account the following matters—

(a) the level of support (as evidenced by the result of the BRS-BID ballot or re-ballot of a BRS-BID ballot, as the case may be) for the BRS-BID proposals;

(b) the nature and extent of the conflict referred to in paragraph (1)(a) of regulation 14;

(c) in relation to paragraph (1)(b) of regulation 14, the structure of the proposed BRS-BID levy and how the financial burden of the BRS-BID is to be distributed amongst persons with a relevant property interest in the geographical area of the BID;

(d) the extent to which the BRS-BID proposer discussed the BRS-BID proposals with the authority before submitting the BRS-BID proposals to the authority under regulation 5;

(e) whether, after the date on which the notice pursuant to regulation 5(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 BRS-BID proposals;

(f) the cost incurred by any person up to the end of the period prescribed in regulation 14(2) in developing the BRS-BID proposals and canvassing in relation to the BRS-BID proposals; and

(g) the nature and extent of the failure referred to in paragraph (1)(c) of regulation 14.

(9) As soon as reasonably practicable after a decision has been made, the Secretary of State shall send notice of his decision in writing to the appellant and the relevant billing authority.

**BID Revenue Account**

**16.**—(1) Schedule 3 shall have effect with respect to the keeping of the BID Revenue Account in respect of BRS-BID arrangements, as follows—

Part 1—Credits to the account;

Part 2—Debits to the account.

(2) Where the relevant billing authority has more than one set of BRS-BID arrangements it shall ensure a separate BID Revenue Account is kept for each of the BRS-BID arrangements.

(3) This paragraph applies where BRS-BID arrangements come to an end (whether by reason of termination under regulation 20 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 BRS-BID levy immediately prior to the end of the BRS-BID arrangements (in this regulation, a "previous levy payer").

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

(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 levy payer;

(b) ensure the amount to be credited or refunded to each previous levy payer is calculated by reference to the amount of the BRS-BID levy each previous levy payer was liable to pay for the last chargeable period of the BRS-BID arrangements; and

(c) 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 shall carry the credit balance in the BID Revenue account to the credit of its general fund.

**Administration of the BRS-BID levy etc**

**17.** The relevant billing authority shall, by the commencement date, provide for the imposition, administration, collection, recovery and application of the BRS-BID levy and Schedule 4 shall have effect with respect to those matters.

**Alteration of BRS-BID arrangements without an alteration ballot**

**18.**—(1) Subject to paragraphs (2) to (4), BRS-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 the BRS-BID levy in such a way that would—

(a) cause any person to be liable to pay the BRS-BID levy who was not previously liable to pay; or

(b) increase the BRS-BID levy for any person.

(3) Where paragraph (1) applies, the BRS-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 BRS-BID body, a consultation between the BRS-BID body and the relevant billing authority; and

(b) where a local authority BRS-BID body is responsible for implementing the BRS-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 BRS-BID arrangements are altered pursuant to this regulation—

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

(b) sections 44, 46(3) and (4) and 47 of the 2003 Act, paragraphs 3 and 4 of Schedule 2 to the 2009 Act and regulations 16 to 20 and Schedules 3 and 4 shall have effect from the date the BRS-BID arrangements (as altered) come into force as if a reference in each of those provisions to "BRS-BID arrangements" were a reference to the BRS-BID arrangements as altered.

**Alterations of the BRS-BID arrangements following a ballot**

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

(a) BRS-BID arrangements and those arrangements do not include a provision allowing for the arrangements to be altered without a ballot; or

(b) the BRS-BID levy in such a way that would—

(i) cause any person to be liable to pay the BRS-BID levy who was not previously liable to pay; or

(ii) increase the BRS-BID levy for any person,

the BRS-BID body or, where a local authority BRS-BID body is responsible for implementing the BRS-BID arrangements, the relevant billing authority may alter the BRS-BID arrangements in accordance with this regulation.

(2) An alteration of the BRS-BID arrangements under this regulation is not to come into force unless the alteration proposals are approved by a ballot of the persons who have a relevant property interest who are to be liable for the BRS-BID levy under the BRS-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 BRS-BID arrangements are altered pursuant to this regulation—

(a) the billing authority shall ensure the BRS-BID arrangements (as altered) are made by the time those BRS-BID arrangements (as altered) are to come into force; and

(b) sections 44, 46(3) and (4) and 47 of the 2003 Act, paragraphs 3 and 4 of Schedule 2 to the 2009 Act and regulations 16 to 20 and Schedules 3 and 4 shall have effect from the date the BRS-BID arrangements (as altered) come into force as if a reference in each of those provisions to "BRS-BID arrangements" were a reference to the BRS-BID arrangements as altered.

**Termination of BRS-BID arrangements**

**20.**—(1) The relevant billing authority may terminate BRS-BID arrangements where—

(a) in the opinion of the authority, the BRS-BID body will have insufficient finances to meet its liabilities for the current chargeable period and the authority has—

(i) offered the BRS-BID body a reasonable opportunity to arrange for financing the shortfall or for a reduction in the works or services under the BRS-BID arrangements which is sufficient to offset the shortfall; and

(ii) given those persons who are liable to the BRS-BID levy an opportunity, at a public meeting, to make representations in relation to the termination of the BRS-BID arrangements; or

(b) the authority is unable, due to any cause beyond the control of the authority, to provide works or services which are necessary for the BRS-BID to continue and the authority has—

(i) where there is a BRS-BID body, consulted the BRS-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 BRS-BID body is responsible for implementing the BRS-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 BRS-BID body or, where a local authority BRS-BID body is responsible for implementing the BRS-BID arrangements, the relevant billing authority may terminate the BRS-BID arrangements where—

(a) the works or services to be provided under the BRS-BID arrangements are no longer required; or

(b) the BRS-BID body or local authority BRS-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 BRS-BID to continue.

(3) The BRS-BID body or, where a local authority BRS-BID body is responsible for implementing the BRS-BID arrangements, the relevant billing authority shall take no steps to terminate the BRS-BID arrangements until—

(a) where there is a BRS-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 BRS-BID body is responsible for implementing the BRS-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 shall notify the BRS-BID body in writing of its intention to terminate the BRS-BID arrangements under paragraph (1) or (2) at least 28 days before the date of the termination.

(5) The BRS-BID body shall notify the relevant billing authority in writing of its intention to terminate the BRS-BID arrangements under paragraph (2) at least 28 days before the date of the termination.

(6) Where BRS-BID arrangements are terminated under this regulation or where the BRS-BID arrangements otherwise come to an end, the relevant billing authority shall, as soon as is reasonably practicable, give notice of the termination in writing to each person liable for the BRS-BID levy and the notice shall include an explanation of whether a repayment under regulation 16(4) is to be made.

**Expenses of the ballot holder**

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

**Joint arrangements**

**22.**—(1) Two or more billing authorities may make BRS-BID arrangements ("joint BRS-BID arrangements") under Schedule 2 to the 2009 Act with respect to a business improvement district comprising all or part of the area of each of the authorities.

(2) In their application to joint BRS-BID arrangements, the 2003 Act and these Regulations have effect subject to the modifications in Schedule 5.

**Electronic communication of requests, applications or notices**

**23.**—(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 by authority of the Secretary of State for Communities and Local Government

*Name*
Parliamentary Under Secretary of State
Date Department for Communities and Local Government

# SCHEDULE 1

Regulation 5

## Content of proposals

**1.**—(1) Subject to sub-paragraphs (2) and (3), the matters which shall be included in BRS-BID proposals are—

(a) a statement of the works or services to be provided, the name of who will provide them (the name of the BRS-BID body or local authority BRS-BID body) and the type of body the provider is (whether a local authority, a company under the control of the authority, a limited company or a partnership);

(b) a statement of the existing baseline services (if any) provided by the relevant billing authority or other public authority;

(c) a description of the geographical area of the BID (including a map showing that area);

(d) a statement of the description of persons who are to be liable for BRS-BRD levy in the geographical area of the BID, an explanation of how the amount of the BRS-BID levy to be levied is to be calculated and an explanation of whether any of the costs incurred in developing the BRS-BID proposals, holding of the ballot or implementing the BRS-BID are to be recovered through the BRS-BID levy;

(e) a statement of the specified class of persons with a relevant property interest (if any) for which and the level at which any relief from the BRS-BID levy is to apply;

(f) a statement of whether the BRS-BID arrangements may be altered without an alteration ballot and, if so, which aspects of the BRS-BID arrangements may be altered in this way;

(g) a statement of the duration of the BRS-BID arrangements;

(h) a statement of the commencement date of the BRS-BID arrangements; and

(i) details of how to obtain copies of the BRS-BID proposals.

(2) In relation to sub-paragraph (1)(h), the BRS-BID proposals shall specify how many days after the notice of the result is published pursuant to paragraph 17 of Schedule 2 the BRS-BID arrangements will commence and such commencement date shall be no later than a year after the date of that notice.

**2.** The matters which shall be included in renewal proposals are—

(a) a statement of the proposed period (not exceeding five years) of the renewed BRS-BID arrangements;

(b) a summary of the BRS-BID arrangements (including the geographical area of the BID, the works or service provided, an explanation of who is liable for the BRS-BID levy, the level of the BRS-BID levy and how it is calculated); and

(c) details of how to obtain copies of the BRS-BID proposals.

**3.**—(1) Subject to sub-paragraph (2), the matters which shall be included in alteration proposals are a description of how it is proposed the BRS-BID arrangements are to be altered in relation to each of the following—

(a) the works or services to be provided or the person to have responsibility for implementing the BRS-BID arrangements;

(b) a summary of the existing baseline services (if any) provided by the relevant billing authority;

(c) the geographical area in respect of which the BRS-BID arrangements are to be made as a result of an alteration to the geographical area of the BID (including a map showing that area);

(d) the description of persons who are to be liable to the BRS-BID levy, an explanation of how the amount of the BRS-BID levy to be levied is to be calculated and an explanation of whether any of the costs incurred in developing the BRS-BID proposals, holding of the ballot or implementing the BRS-BID are to be recovered through the BRS-BID levy;

(e) the category of relevant property interests (if any) for which and the level at which any relief from the BRS-BID levy is to apply;

(f) whether the BRS-BID arrangements may be altered without an alteration ballot and, if so, which aspects of the BRS-BID arrangements may be altered in this way;

(g) a statement of the commencement date of the alterations to the BRS-BID arrangements; and

(h) details of how to obtain copies of the proposed alterations.

(2) In relation to sub-paragraph (1)(g), the BRS-BID body or local authority BRS-BID body, as the case may be, shall specify how many days after the notice of the result is published pursuant to paragraph 17 of Schedule 2 it proposes the alterations to the BRS-BID arrangements will come into force and such commencement date shall be no later than a year after the date of that notice.

# SCHEDULE 2

Regulation 8

## Rules for ballots

## PART 1

### Provisions as to time

**Timetable**

**1.** The proceedings of the ballot shall be conducted in accordance with the following Table.

**Timetable**

| *Proceeding* | *Time* |
|---|---|
| The ballot holder is instructed | In accordance with regulation 7. |
| Publication of notice of ballot | At least 42 days before the day of the ballot (paragraph 3). |
| Day of the ballot | The day determined in accordance with paragraph 2. |
| Declaration of the result | In accordance with paragraph 17. |

# 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.

(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—

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 | |

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—

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 | |

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—

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 | |
|---|---|---|---|

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(**a**).

(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.

(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.

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(**a**) 2011 c. 5.

**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.

**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.

# SCHEDULE 3

Regulation 16

## The keeping of the BID revenue account

## PART 1

### Credits to the account

**1.** For each year a billing authority which is required to keep a BID Revenue Account ("the account") shall carry to the credit of the account amounts equal to the items listed in this Part of this Schedule.

*Item 1: BRS-BID revenues*

Sums receivable for the year under sections 43 of the 2003 Act and paragraph 3 of Schedule 2 to the 2009 Act.

*Item 2: income from BRS-BID services and facilities*

Sums receivable by the authority for the year in respect of services or facilities provided by it (excluding contributions made by it to the BRS-BID under section 43(2)(a) of the 2003 Act) under the BRS-BID arrangements.

*Item 3: reduced provision for bad or doubtful debts*

The following, namely—

(a) any sums debited to the account for a previous year under sub-paragraph (a) of item 3 of Part 2 of this Schedule which have been recovered by the authority during the year; and

(b) any amount by which, in the opinion of the authority, any provision debited to the account for a previous year under sub-paragraph (b) of that item should be reduced.

*Item 4: credit balance from previous year*

Any credit balance shown in the account for the previous year.

## PART 2

### Debits to the account

**2.** For each year a billing authority which is required to keep a BID Revenue Account ("the account") shall carry to the debit of the account amounts equal to the items listed in this Part of this Schedule.

*Item 1: BRS-BID cost of collection*

The cost to the authority for the year in respect of collecting the BRS-BID levy.

*Item 2: BRS-BID expenditure*

The expenditure of the authority for the year in respect of the BRS-BID arrangements (including sums paid to a third party to undertake the works or services under the BRS-BID arrangements).

*Item 3: provision for bad or doubtful debts*

The following, namely—

(a) any sums credited to the account for the year or any previous year under item 1 or 2 of Part 1 of this Schedule which, in the opinion of the authority, are bad debts which should be written off; and

(b) any provision for doubtful debts which, in their opinion, should be made in respect of sums so credited.

*Item 4: debit balance from previous year*

Any debit balance shown in the account for the previous year.

# SCHEDULE 4

Regulation 17

## Imposition, administration, collection, recovery and application of the BRS-BID levy

### Interpretation

**1.**—(1) In this Schedule "relevant period" in relation to a notice means the chargeable period to which the notice relates.

(2) Where references are made in this Schedule to the day on which a notice is issued, they shall be taken to be references—

(a) if the notice is served in the manner described in sub-paragraph (4) below or section 233(2) of the Local Government Act 1972(**a**) by being left at, or sent by post to, a person's place of business or proper address, to the day on which it is so left or posted, or

(b) in any other case, to the day on which it is served.

(3) Where any notice which is required or authorised by this Schedule to be given to or served on a person falls to be given or served by or on behalf of the Common Council of the City of London or by an officer of the Common Council of the City of London, it may be given or served in any manner in which it might be given or served under section 233 of the Local Government Act 1972 as if the Common Council were a local authority within the meaning of that section.

(4) Without prejudice to section 233 of the Local Government Act 1972 and sub-paragraph (3) above, where any notice which is required or authorised by this Schedule to be given to or served on a person relates to a hereditament which is (or, where such a notice relates to more than one hereditament, one or more of which is) a place of business of that person, it may be given or served by leaving it at, or by sending it by post to him at, the place of business (or, as the case may be, one of those places of business).

(5) Without prejudice to section 233 of the Local Government Act 1972 and sub-paragraphs (3) and (4) above and subject to sub-paragraphs (6) to (9) below, any notice required or authorised to be given to or served by a billing authority on any person by this Schedule, or any information required by paragraph 3(2) of this Schedule to be supplied to any person when a demand notice (within the meaning of this Schedule) is served—

(a) may be so given, served or supplied by sending the notice or information to that person by electronic communication to such address as may be notified by that person for that purpose; or

(b) shall be treated as given, served or supplied to that person where—

(i) the billing authority and that person have agreed for that purpose that any documents containing the notice or information may be accessed by that person on a website;

(ii) the document is a document to which that agreement applies;

(iii) the billing authority has published the document on a website; and

(iv) that person is notified, in a manner for the time being agreed for those purposes between him and the billing authority, of—

(aa) the publication of the document on a website;

(bb) the address of that website; and

(cc) the place on the website where the document may be accessed.

(6) For the purpose of any legal proceedings, a notice given by a means described in paragraph (5) shall, unless the contrary is proved, be treated as served on the second business day after—

(a) it was sent in accordance with sub-paragraph (5)(a); or

(b) notification of its publication was given in accordance with sub-paragraph (5)(b)(iv).

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(**a**) 1972 c. 70. There are no relevant amendments.

(7) A person who has notified an address for the purpose of sub-paragraph (5)(a) shall, by notice in writing to the billing authority, advise the billing authority of any change in that address; and the change shall take effect on the third business day after the date on which the notice is received by the billing authority.

(8) A person who has notified an address for the purpose of sub-paragraph (5)(a) may, by notice in writing to the billing authority, withdraw that notification; and the withdrawal shall take effect on the third business day after the date on which the notice is received by the billing authority.

(9) A person who has entered into an agreement with the billing authority under sub-paragraph (5)(b)(i) may, by notice in writing to the billing authority, inform the authority that he no longer wishes to be a party to the agreement; and where such notice is given, the agreement shall be treated as revoked on the third business day after the date on which the notice is received by the billing authority.

(10) In this Schedule, "the Schedule 12 procedure" means the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007(**a**) (taking control of goods and selling them to recover a sum of money).

**The requirement for demand notices**

**2.**—(1) For each chargeable period a relevant billing authority shall, in accordance with paragraphs 3 to 6, serve a notice in writing on every person who is liable for the BRS-BID levy in relation to the BRS-BID arrangements for the period.

(2) Different demand notices shall be served for different chargeable periods.

(3) A demand notice shall be served with respect to the amount payable for every hereditament as regards which a person is liable for the BRS-BID levy, though a single notice may relate to the amount payable with respect to more than one such hereditament.

(4) If a single demand notice relates to the amount payable with respect to more than one hereditament the amounts due under it, and the times at which they fall due, shall be determined as if separate notices were issued in respect of each hereditament.

**Content of demand notices**

**3.**—(1) A demand notice shall contain the following matters—

(a) a statement of the address and description of each hereditament to which the notice relates;

(b) a statement explaining how the BRS-BID levy is calculated for each hereditament to which the notice relates; and

(c) a statement of the days (if any) on which, for the purposes of calculating the payments required to be made under the notice, it was understood that the person who is liable for the BRS-BID levy in respect of the hereditament fell within the description in the BRS-BID arrangements of persons who are to be liable for the BRS-BID levy for the chargeable period in question.

(2) A billing authority must when it serves a demand notice supply to the person to whom the notice is served the following information—

(a) the revenue from the BRS-BID levy the billing authority was due to receive in the previous chargeable period;

(b) the amount spent on the BRS-BID arrangements in the previous chargeable period;

(c) a description of the matters on which it was spent; and

(d) a description of the matters on which it is intended to spend the revenue from the BRS-BID levy in the chargeable period.

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(**a**) 2007 c. 15.

**Invalid notices**

**4.**—(1) Where—

(a) a demand notice is invalid because it does not contain the matters referred to in paragraph 3(1);

(b) the failure so to comply was due to a mistake; and

(c) the amounts required to be paid under the notice were demanded in accordance with paragraph 2(1),

the requirement to pay those amounts shall apply as if the notice were valid.

(2) Where a requirement to pay an amount under an invalid notice subsists by virtue of sub-paragraph (1), the billing authority shall as soon as practicable after the mistake is discovered issue to the person who is liable for the BRS-BID levy concerned a statement of the matters which were not contained in the notice and which should have been so contained.

**Service of demand notices**

**5.**—(1) Subject to sub-paragraph (2), a demand notice shall be served on or as soon as practicable after—

(a) except in a case falling within paragraph (b), the first day of the relevant period; or

(b) if the person falls within the description of person to be liable to the BRS-BID levy specified in the BRS-BID arrangements as regards the hereditament concerned later in the relevant period, the first day after that day in respect of which he falls within that description.

(2) A demand notice may be served before the beginning of the relevant period on a person who, on the day it is issued, the relevant billing authority considers will fall within the description of person to be liable to the BRS-BID levy specified in the BRS-BID arrangements as regards the hereditament to which it relates; and if it is so served, references in this Schedule to a person who is liable for the BRS-BID levy shall, in relation to that notice and so far as the context permits, be construed as references to that person.

**Payments under demand notices**

**6.**—(1) If a demand notice is issued before or during the relevant period and it appears to the relevant billing authority that the person falls within the description of person to be liable to the BRS-BID levy specified in the BRS-BID arrangements in respect of the day on which the notice is issued as regards the hereditament to which it relates, the notice shall require payment of an amount equal to the relevant billing authority's estimate of the amount payable for the period.

(2) In making an estimate under sub-paragraph (1) the relevant billing authority shall assume, as respects a period which falls after the issue of the notice, that the person will continue to fall within the description referred to in sub-paragraph (1).

(3) If a demand notice is issued during the relevant period but sub-paragraph (1) does not apply, the notice shall require payment of an amount equal to the amount payable for the period in the period up to the day on which the person last fell within the description of person to be liable to the BRS-BID levy specified in the BRS-BID arrangements as regards the hereditament concerned.

(4) If, after a notice is served to which sub-paragraph (3) applies, the person again falls within the description of person to be liable to the BRS-BID levy specified in the BRS-BID arrangements in the relevant period as regards the hereditament concerned, a further notice shall be served on him requiring payments with respect to the amount payable in relation to the hereditament for the period in the relevant period beginning with the day in respect of which the person so falls within the said description again.

(5) Where a further notice is issued under sub-paragraph (4), paragraphs 5 to 8 shall apply to the further notice with respect to the period referred to in sub-paragraph (4) as if it were a demand notice and the person had not previously fallen within the description of person to be liable to the BRS-BID levy specified in the BRS-BID arrangements.

(6) If a demand notice is issued after the end of the relevant period, it shall require payment of the amount payable for the period.

**Payments under demand notices: further provision**

**7.**—(1) Unless an agreement under sub-paragraph (3) in relation to the relevant period has been reached before the demand notice is issued, a notice to which paragraph 6(1) applies shall require the estimate of the amount to be payable on expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(2) If an agreement under sub-paragraph (3) in relation to the relevant period has been reached before the demand notice is issued, a notice to which paragraph 6(1) applies shall require the estimate of the amount payable to be paid in accordance with that agreement.

(3) A relevant billing authority and a person who is liable for the BRS-BID levy may agree that the estimate of the amount payable which is required to be paid under a notice to which paragraph 6(1) applies should be paid in such manner as is provided by the agreement.

(4) Notwithstanding anything in the preceding provisions of this paragraph, such an agreement may be entered into either before or after the demand notice concerned is issued, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in paragraph 6(1) turning out to be wrong; and if it is entered into after the demand notice has been issued, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid before it was entered into.

(5) A notice to which paragraph 6(3) or (5) applies shall require payment of the amount payable on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(6) No payment in respect of the amount payable by a person who is liable for the BRS-BID levy in relation to a hereditament for any chargeable period need be made unless a notice served under this Schedule requires it.

**Demand notices: final adjustment**

**8.**—(1) This paragraph applies where—

(a) a notice has been issued by a relevant billing authority under this Schedule requiring a payment or payments to be made by a person who is liable for the BRS-BID levy in respect of the amount payable in relation to a hereditament for a chargeable period or part of a chargeable period;

(b) the payment or payments required to be paid are found to be in excess of or less than the amount payable in relation to the hereditament for the period or the part; and

(c) provision for adjusting the amounts required under the notice and (as appropriate) for the making of additional payments or the repaying or crediting of any amount overpaid is not made by any other provision of this Schedule or of any agreement entered into under paragraph 7(3).

(2) The relevant billing authority shall as soon as practicable after the expiry of the period or the part of a period serve a further notice on the person who is liable for the BRS-BID levy stating the amount payable for the period or part in relation to the hereditament, and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in sub-paragraph (1)(a).

(3) If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in sub-paragraph (1)(a), the amount of the difference for which such other provision as is mentioned in sub-paragraph (1)(c) is not made shall be due from the person who is liable for the BRS-BID levy to the relevant billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it.

(4) If there has been an overpayment in respect of any liability of the person who is liable for the BRS-BID levy under this Schedule, the amount overpaid for which such other provision as is mentioned in sub-paragraph (1)(c) is not made—

(a) shall be repaid if the person who is liable for the BRS-BID levy so requires; or

(b) in any other case shall (as the relevant billing authority determines) either be repaid or be credited against any subsequent liability of the person who is liable for the BRS-BID levy to pay anything to it by way of the BRS-BID levy or non-domestic rate.

**Enforcement**

**9.** Part 3 of, and Schedule 4 to, the 1989 Regulations shall apply to the enforcement of the BRS-BID levy with the following modifications—

(a) the reference in regulations 10 and 20 to a sum which has become payable to a billing authority under Part 2 of those Regulations shall be read as including a reference to a sum which has become payable to a billing authority under this Schedule;

(b) regulation 11(3) shall not apply;

(c) regulation 12(1) shall be read as if the words from "an amount which has fallen due under regulation 8(2)" to "required under regulation 11)" were excluded;

(d) the definition of "authorised person" in regulation 21(7) shall be read as including a person authorised by a billing authority to exercise any functions relating to the collection and enforcement of the BRS-BID levy;

(e) the reference in regulation 22 to a sum which has become payable under Part 2 of those Regulations to a person other than a billing authority shall be read as including a reference to a sum which has become payable under this Schedule to a person other than a billing authority;

(f) regulation 23(2) shall be read as if the words "or the contents of any BRS-BID arrangements made under Part 2 of the Business Rate Supplements Act 2009" were inserted after the words "such a list" and the words "or the arrangements" were inserted after the words "list or extract";

(g) regulation 23(3) shall be read as if—

(i) for sub-paragraphs (a) and (b) there were substituted a reference to notification which is given under paragraph 8(2) of this Schedule; and

(ii) the words "or the multiplier in substitution is set under paragraph 10 of Schedule 7 to the Act (as the case maybe)" were excluded; and

(h) regulation 23(4) shall be read as if for the words "paragraph (3)(a) in the case in question, or sets a multiplier in substitution so that paragraph 10(4) of Schedule 7 to the Act applies in the case in question" there were substituted a reference to paragraph 8(2) of this Schedule.

**Outstanding liabilities on death**

**10.**—(1) This paragraph applies where a person dies and at any time before that person's death he or she was (or is alleged to have been) subject to a BRS-BID levy.

(2) Where—

(a) before the deceased's death a sum has become payable by that person under this Schedule or by way of relevant costs in respect of a BRS-BID levy but has not been paid; or

(b) after the deceased's death a sum would, but for that person's death (and whether or not on the service of a notice) become payable by that person under this Schedule in respect of a BRS-BID levy,

that person's executor or administrator shall, subject to sub-paragraph (3) and to the extent that it is not in excess of the deceased's liability (including relevant costs payable by him) in respect of the BRS-BID levy, be liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made).

(3) Where sub-paragraph (2)(b) applies, the liability of the executor or administrator does not arise until the service on that person of a notice requiring payment of the sum.

(4) Where before the deceased's death a sum in excess of his liability (including relevant costs payable by the deceased) in respect of a BRS-BID levy has been paid (whether the excess arises because of the death or otherwise) and has not been repaid or credited under this Schedule, the person's executor or administrator shall be entitled to the sum.

(5) Costs are relevant costs for the purposes of sub-paragraphs (2) and (4) if—

(a) an order or warrant (as the case may be) was made by the court in respect of them under regulation 12(6)(b) or (7) or 16(4)(b) of the 1989 Regulations, or in proceedings under regulation 20 of the 1989 Regulations; or

(b) they are charges which may be recovered pursuant to the Taking Control of Goods (Fees) Regulations 2014(**a**).

(6) A sum payable under sub-paragraph (2) shall be enforceable in the administration of the deceased's estate as a debt of the deceased and accordingly—

(a) no liability order need be applied for in respect of it after the deceased's death under regulation 12 of the 1989 Regulations, and

(b) the liability of the executor or administrator is a liability in his capacity as such.

(7) Regulation 23(1) and (2) of the 1989 Regulations applies to proceedings to enforce a liability arising under this paragraph as it applies to other proceedings under this Schedule.

(8) Insofar as is relevant to his liability under this paragraph in the administration of the deceased's estate, the executor or administrator may institute, continue or withdraw proceedings.

**Application of BRS-BID administration provisions to the Crown**

**11.**—(1) No contravention by the Crown of any provision of this Schedule shall make the Crown criminally liable; but the High Court may, on the application of a billing authority, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(2) Notwithstanding anything in sub-paragraph (1), the provisions of this Schedule shall apply to the Crown as it applies to other persons.

(3) No power of entry conferred by this Schedule shall be exercisable in relation to any hereditament occupied, or, if unoccupied, owned by Her Majesty in her private capacity, and this sub-paragraph shall be construed as if section 38(3) of the Crown Proceedings Act 1947(**b**) were contained in this Schedule.

**Joint owners: billing**

**12.**—(1) This paragraph applies in any case where (apart from this paragraph) there would at a particular time be more than one person who is liable for the BRS-BID levy for a hereditament, or of part of such a hereditament.

(2) Where this paragraph applies—

(a) as regards any time in a chargeable period when there is only one such person who is liable for the BRS-BID levy, that person shall be liable to pay the amount payable by way of the BRS-BID levy with respect to that time; and

(b) as regards any time in a chargeable period when there is more than one such person who is liable for the BRS-BID levy, those persons shall be jointly and severally liable to pay the amount that would have been payable by way of the BRS-BID levy with respect to that time if there were only one such person.

(3) This Schedule shall have effect to accord with sub-paragraph (2); and in particular a notice which falls to be given under this Schedule which relates to a time when paragraph (2)(b) applies may be given—

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(**a**) S.I. 2014/1.
(**b**) 1947 c. 44.

(a) severally to each or any of the persons who is liable for the BRS-BID levy concerned from whom payment is demanded; or

(b) where the persons concerned are jointly and severally liable as partners or trustees, jointly to the partnership or trust (in which case only a single notice need be given in respect of them and references to "the person who is liable for the BRS-BID levy" in this Schedule shall be construed as regards the notice as references to the partners or trustees jointly).

(4) A notice given to a partnership or trust pursuant to paragraph (3)(b) may be served—

(a) in the case of a partnership, in the manner described in section 233(3)(b) of the Local Government Act 1972 ("the 1972 Act"); or

(b) in the case of a trust, by being served on one of the trustees,

and where such a notice falls to be served on a partnership, a person having control or management of the partnership business or a trust under this paragraph, the proper address of the partnership, person or trust (as the case may be) shall include (as well as the address mentioned in section 233(4) of the 1972 Act) any place of business which is a hereditament to which the notice relates.

(5) Where a notice is given pursuant to paragraph (3)(a) to more than one person in respect of the same amount, the billing authority shall notify that fact to each person to whom notice is so given.

(6) Where a notice given pursuant to paragraph (3)(a) to a person who is liable for the BRS-BID levy relates to a time in the relevant year when paragraph (2)(a) applies and a time when paragraph (2)(b) applies, any payment made by the person under the notice shall be treated as being made towards satisfaction of the amount for which he is solely liable unless and until his liability in respect of that amount is discharged.

(7) For the purposes of any time to which paragraph (2)(b) applies, where the description of the person who is to be liable for the BRS-BID levy in the BRS-BID arrangements under paragraph 4 of Schedule 2 to the 2009 Act requires that the person should be a charity or trustees for a charity this shall be treated as met if one or more of the persons jointly and severally liable is a charity or (as the case may be) some or all of them are trustees for a charity.

(8) Where any sum paid in respect of an amount calculated by reference to paragraph (2)(b) falls to be repaid, it may be repaid to such of the persons concerned as the billing authority considers appropriate.

(9) Subject to sub-paragraph (10), any payment or repayment in respect of a liability under paragraph (2)(b) shall be due between the persons who are liable for the BRS-BID levy as will secure that in respect of a liability falling within paragraph (2)(b) the burden or benefit of the payment or repayment accrues to them in equal shares.

(10) Paragraphs (2)(b) and (8) are without prejudice to any right or duty in law or equity of a person who is liable for the BRS-BID levy who has made a payment, or receives a repayment, in respect of a liability under paragraph (2)(b) to recover all or part of the payment from, or to account for all or part of the repayment to, the other persons who are liable for the BRS-BID levy or any beneficiaries interested in the hereditament.

**Joint owners and occupiers: enforcement**

**13.**—(1) Part 3 of and Schedules 3 and 4 to the 1989 Regulations, shall have effect, with the following modifications, for the recovery of a sum for which persons are liable under paragraph 4 of Schedule 2 to the 2009 Act in any case where paragraph 12 applies.

(2) A reminder notice shall be served in accordance with regulation 11(1) and (2) of the 1989 Regulations on every person against whom an application for a liability order is to be made.

(3) Paragraph 12(3) to (6) applies to a reminder notice as it applies to a notice under this Schedule.

(4) A liability order may be applied for and made against one or more of the persons who are liable for the BRS-BID levy concerned in respect of an amount to which paragraph 12(2)(b) applies, whether they have been served with a notice in respect of the amount jointly or severally.

(5) Where a liability order has been made against more than one person in respect of an amount, subject to sub-paragraph (9) the Schedule 12 procedure may be used against one or more of them.

(6) Where the Schedule 12 procedure has been used against more than one person in respect of an amount, a warrant of commitment may be applied for at any time against one of them or different warrants may be applied for against more than one of them.

(7) Where the Schedule 12 procedure has been used against one person only, a warrant of commitment may be applied for against that person.

(8) Where a liability order has been made against more than one person in respect of an amount, and a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) one of them under regulation 16(3) of the 1989 Regulations, no steps, or no further steps, may be taken against any of them by way of the Schedule 12 procedure, bankruptcy or winding up in relation to the amount mentioned in regulation 16(4) of the 1989 Regulations.

(9) Where a liability order has been made against more than one person in respect of an amount—

(a) steps by way of the Schedule 12 procedure, commitment, bankruptcy or winding up may not be taken against a person in respect of the amount while steps by way of another of those methods are being taken against him in respect of it; and

(b) subject to sub-paragraph (10), steps by way of the Schedule 12 procedure may not be taken against a person in respect of an amount whilst steps by way of the Schedule 12 procedure are being taken against one of the others in respect of it.

(10) Where a liability order has been made against more than one person in respect of an amount and in using the Schedule 12 procedure against one of them goods jointly owned by him and another of them are found, paragraph (9)(b) does not preclude control being taken of those goods with respect to that amount; but in any subsequent proceedings under regulation 16 of the 1989 Regulations, charges arising under the Taking Control of Goods (Fees) Regulations 2014 from the use of the Schedule 12 procedure shall be treated as charges relating to the person against whose goods the Schedule 12 procedure was intended to be used when the jointly owned goods were found, and not as charges relating to the other.

(11) Where—

(a) a liability order has been made against more than one person in respect of an amount; and

(b) a charge has arisen against one of them for the enforcement stage within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014 in respect of that amount,

no further charge for the enforcement stage or compliance stage (within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014) in consequence of any further use or attempted use of the Schedule 12 procedure in respect of that amount may be recovered from any of them; and a charge for the compliance stage shall be treated for those purposes as a charge with respect to the others as well as that one.

(12) Where a liability order is made against one person in respect of an amount, and also against another person or persons (whether at the same time as the order against the first mentioned person or subsequently and whether in respect of all or part of that amount)—

(a) the order made as respects all but the relevant person shall not include under regulation 12(6)(b) or (7) of the 1989 Regulations any additional sum in respect of the costs of obtaining the order against the other or others;

(b) those persons (with the relevant person) shall be treated as jointly and severally liable for the amount included in the order against the relevant person in respect of costs;

(c) the order against them shall (as regards regulations 12(6)(b) or (7) of the 1989 Regulations) be made in respect of the sum outstanding in relation to it.

(13) For the purposes of sub-paragraph (12), the relevant person is the person against whom the liability order was first made in respect of the amount or, if there are more than one such person, such one of them as the court considers appropriate.

(14) Sub-paragraph (12) is not to be construed as permitting a billing authority to apply under regulation 12(2) of the 1989 Regulations for a liability order against a person in respect of costs alone after an order has been made for those costs against another person.

**Enforcement in relation to partnerships**

**14.**—(1) Where persons are liable to pay an amount to which paragraph 12(2)(b) applies as partners in consequence of the service of a notice pursuant to paragraph 12(3)(b), a liability order in relation to it may be applied for and made against them in their firm name; and such an order shall be as effective as if orders were made against each partner concerned in respect of his liability for that amount.

(2) If a liability order is made against partners in their firm name in respect of an amount and no order has earlier been made against another person in respect of it, references in paragraph 13(12) to the relevant person shall be construed as references to the partnership.

(3) Without prejudice to regulation 13(2) of the 1989 Regulations, a summons issued pursuant to an application for a liability order against partners in their firm name may be served by leaving it at, or by sending it by post to the partnership at, the principal office of the partnership.

(4) Where a liability order has been made against partners in their firm name in respect of an amount, paragraph 13(9)(b) does not preclude control being taken of partnership property with respect to that amount; and in any subsequent proceedings under regulation 16 of the 1989 Regulations, the partners shall be treated as jointly and severally liable for charges arising under the Taking Control of Goods (Fees) Regulations 2014 from the use of the Schedule 12 procedure..

(5) Where a liability order is made against partners in their firm name, regulation 18(2) of the 1989 Regulations shall have effect as if the reference to a company included a reference to the partnership and the reference to section 221(5)(b) of the Insolvency Act 1986(**a**) were—

(a) in a case where article 7 of the Insolvent Partnerships Order 1994(**b**) applies, a reference to section 221(7)(b) of that Act as modified by article 7(2) of and Part 1 of Schedule 3 to that Order; or

(b) in a case where article 8 of that Order applies, a reference to section 221(8)(a) of that Act as modified by article 8(2) of and Part 1 of Schedule 4 to that Order.

(6) Where a liability order is made against partners in their firm name, paragraph 13(9)(a) does not preclude insolvency proceedings being brought against the partnership as well as against members of the partnership, and those proceedings being dealt with in accordance with the Insolvent Partnerships Order 1994.

# SCHEDULE 5

Regulation 22

## Modification of the 2003 Act, the 2009 Act and these Regulations in respect of joint BRS-BID arrangements

**Modification of Part 4 of the Local Government Act 2003**

**1.** Part 4 of the 2003 Act applies in relation to joint BRS-BID arrangements with the following modifications—

(a) in section 43(2)(a) (additional contributions and action) for "the billing authority which has made the arrangements," substitute "any of the billing authorities which have made the arrangements,";

(b) in section 44 (duty to comply with arrangements) for "the billing authority which made the arrangements" substitute "all of the billing authorities which made the arrangements";

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(**a**) 1986 c. 45. Relevant amendments were made by S.I. 2002/1240 and 2009/1941.
(**b**) S.I. 1994/2421; relevant amendments were made by S.I. 2002/1308, 2002/2708 and 2006/622.

(c) in section 46(4) (liability for BRS-BID levy) for "which made the arrangements" substitute "in whose area the hereditament in respect of which that person is liable is situated.";

(d) for section 51(4) (power of veto) substitute—

"(4) If a billing authority vetoes BRS-BID proposals, it must give notice of the exercise of the veto—

(a) to the persons entitled to vote in the ballot; and

(b) to each of the other billing authorities to which the proposals relate."; and

(e) in section 53 (commencement of BRS-BID arrangements)—

(i) in subsection (2) for "The billing authority concerned" substitute "The billing authorities concerned";

(ii) in subsection (7)(a) for "the billing authority concerned" substitute "the billing authorities concerned".

**Modification of Schedule 2 to the Business Rate Supplements Act 2009**

**2.**—(1) Schedule 2 to the 2009 Act applies in relation to joint BRS-BID arrangements with the following modification.

(2) In paragraph 7(2) (veto) for "The billing authority may" substitute "Any of the billing authorities may".

**Modification of these Regulations**

**3.** These Regulations apply in relation to joint BRS-BID arrangements with the following modifications.

**4.** In regulation 2 (interpretation)—

(a) after the definition of "joint BRS-BID arrangements", insert—

""lead authority" is to be construed in accordance with regulation 5A;";

(b) for the definition of "local authority BRS-BID body" substitute—

""local authority BRS-BID body", in relation to BRS-BID arrangements, means—

(a) a relevant billing authority which is responsible for implementing the BRS-BID arrangements (whether or not with another relevant billing authority); or

(b) a company which is under the control of a relevant billing authority (within the meaning given in section 68 of the Local Government and Housing Act 1989) and which is responsible for implementing the BRS-BID arrangements;"; and

(c) for the definition of "relevant billing authority" substitute—

""relevant billing authority" means a billing authority the whole or part of whose area falls within the geographical area of the BID;".

**5.** In regulation 4 (BRS-BID proposer)—

(a) in paragraph (1)(a) for "relevant billing authority" substitute "lead authority";

(b) in paragraph (1)(b) for "the relevant billing authority" substitute "one or more of the billing authorities to which the BRS-BID proposals are to relate"; and

(c) in paragraph (2) for the first reference to "the relevant billing authority" substitute "each of the relevant billing authorities" and for the second reference to "the relevant billing authority" substitute "the lead authority".

**6.** After regulation 4, insert—

"**Lead authority**

**4A.**—(1) In relation to BRS-BID proposals, the lead authority,—

(a) where a billing authority draws up the BRS-BID proposals, is to be that authority;

(b) where two or more billing authorities jointly draw up the BRS-BID proposals, is to be such authority as those authorities decide; or

(c) in all other cases, is to be determined in accordance with paragraphs (2) and (3).

(2) On receipt of the notification in regulation 4(2), the relevant billing authorities must appoint one of them to be the lead authority.

(3) If the relevant billing authorities are unable to agree which authority to appoint by the end of 56 days beginning with the day on which all relevant billing authorities have received the notification referred to in regulation 4(2), the authority with the greatest number of hereditaments in the geographical area of the BID in respect of which persons with a relevant property interest are to be liable for the proposed BRS-BID levy is the lead authority.

(4) Where there is a proposal to alter the scope of the BRS-BID arrangements as a result of an alteration to the geographical area of the BID in such a way that it would comprise the area of two or more billing authorities where it had not done so before, the lead authority is the relevant billing authority for the original BRS-BID arrangements.

(5) As soon as reasonably practicable after the lead authority has been determined, it must notify the BRS-BID proposer or the BRS-BID body, as the case may be, that it is the lead authority.

(6) Unless the relevant billing authorities agree otherwise, a lead authority is to remain the lead authority for the duration of the BRS-BID arrangements including where the BRS-BID arrangements are renewed or altered.

(7) Where the identity of the lead authority changes, the new lead authority must notify the BRS-BID proposer or the BRS-BID body, as the case may be, that it is now the lead authority."

**7.** In regulation 5 (proposals and preliminary procedures)—

(a) in paragraph (2) for "the relevant billing authority" in each place substitute "the lead authority";

(b) after paragraph (3) insert—

"(3A) The lead authority must send a copy of the BRS-BID proposals, renewal proposals or alteration proposals to each of the other relevant billing authorities."; and

(c) in paragraph (5)—

(i) for "the relevant billing authority" substitute "any of the relevant billing authorities"; and

(ii) after the words "as the case may be," insert the words "and each of the other relevant billing authorities".

**8.** In regulation 6 (instructions to hold a ballot)—

(a) for "the relevant billing authority" in each place substitute "the lead authority";

(b) in paragraph (1)(b)—

(i) for "a local authority BRS-BID body is" substitute "one or more local authority BRS-BID bodies are"; and

(ii) after "as the case may be" insert ", and all of the other relevant billing authorities agree that a ballot should be held;";

(c) in paragraph (1)(d) at the end insert "(whether alone or jointly with one or more other billing authorities) and any other relevant billing authority involved in drawing up the proposals has agreed that a ballot should be held;"; and

(d) after paragraph (2) insert—

"(3) Where the lead authority instructs the ballot holder to hold a BRS-BID ballot, a renewal ballot, an alteration ballot or re-ballot, as the case may be, it must send a copy of those instructions to all the other relevant billing authorities for the BRS-BID."

**9.** In regulation 7(1) (ballot holder), for "the relevant billing authority" substitute "the lead authority".

**10.** In regulation 11 (declaring a ballot void)—

(a) in paragraph (4)(c), for "the relevant billing authority" substitute "any of the relevant billing authorities";

(b) in paragraph (5) for "the relevant billing authority" substitute "each of the relevant billing authorities";

(c) in paragraph (7) for "the relevant billing authority" substitute "any of the relevant billing authorities";

(d) in paragraph (10) for the first reference to "the relevant billing authority" substitute "each of the relevant billing authorities", and for the second reference to "the relevant billing authority" substitute "the lead authority"; and

(e) in paragraph (12)(b) for "the relevant billing authority" substitute "the lead authority".

**11.** In regulation 12 (payment of costs of a ballot)—

(a) in paragraph (2) for "the relevant billing authority" in each place substitute "the lead authority";

(b) in paragraph (3) for "the relevant billing authority" substitute "the relevant billing authorities"; and

(c) after paragraph (3) insert—

"(4) Where the lead authority has recovered an amount from the BRS-BID proposer or the BRS-BID body to cover the expenses of the ballot holder under paragraph (2) it must apportion that amount between each of the relevant billing authorities in the proportions in which the authorities contributed to the expenditure of the ballot holder under regulation 21. "

**12.** In regulation 13 (information)—

(a) in paragraph (1)(c) for "relevant billing authority" substitute "the lead authority"; and

(b) in paragraph (5) for "The relevant billing authority" substitute "Each of the relevant billing authorities".

**13.** In regulation 14 (veto of BRS-BID proposals) in paragraph (3)(d) for the first reference to "the authority" substitute "any of the authorities" and for the second reference to "the authority" substitute "the lead authority".

**14.** In regulation 15 (appeal against veto)—

(a) in paragraph (1) for "the relevant billing authority" substitute "a relevant billing authority";

(b) in paragraph (2)(a) for "the relevant billing authority" substitute "each of the relevant billing authorities";

(c) in paragraph (2)(b) for "the relevant billing authority" substitute "each of the relevant billing authorities";

(d) in paragraph (5) for "the relevant billing authority" substitute "any of the relevant billing authorities";

(e) after paragraph (7) insert—

"(7A) For the purposes of paragraphs (6) and (7) a reference to a party to the appeal includes each of the relevant billing authorities.";

(f) in paragraph (8)(d) for the first reference to "the authority" substitute "any of the authorities" and for the second reference to "the authority" substitute "the lead authority";

(g) in paragraph (8)(e) for "the relevant billing authority" substitute "a relevant billing authority"; and

(h) in paragraph (9) for "the relevant billing authority" substitute "each of the relevant billing authorities".

**15.** In regulation 16 (BID revenue account)—

(a) in paragraph (2) for "the relevant billing authority" substitute "the lead authority";

(b) after paragraph (2) insert—

"(2A) A relevant billing authority which is not a lead authority shall transfer the amounts it receives in respect of BRS-BID levy in respect of its area to the lead authority's BID revenue account at such time and in such manner as is agreed between the relevant billing authorities."

(c) in paragraph (4) for "the relevant billing authority" substitute "the lead authority";

(d) for paragraph (5) substitute—

"(5) Where paragraph (3) does not apply, the lead authority shall apportion the credit balance between each of the relevant billing authorities—

(a) in such proportions as shall be agreed by the authorities; or

(b) where the authorities are unable to agree, in proportion to the rateable value of the hereditaments situated in each authority's area and in respect of which a person was liable to pay the BRS-BID levy at the point that the BRS-BID arrangements came to an end."; and

(e) after paragraph (5) insert—

"(6) The lead authority shall transfer the amount determined in accordance with paragraph (5) to each of the relevant billing authorities at such time and in such manner as is agreed between the lead authority and each of the relevant billing authorities."

**16.** For regulation 17 (administration of the BRS-BID levy etc) substitute—

"**Administration of the BRS-BID levy etc**

**17.** Each relevant billing authority shall, by the commencement date, provide for the imposition, administration, collection, recovery and application of the BRS-BID levy in its area and Schedule 4 shall have effect with respect to those matters."

**17.** In regulation 18 (alteration without ballot)—

(a) in paragraph (4) for "the relevant billing authority" in each place substitute "each of the relevant billing authorities";

(b) in paragraph (4)(b) for "a local authority BRS-BID body is" substitute "one or more local authority BRS-BID bodies are"; and

(c) in paragraph (5) for "the billing authority" substitute "the relevant billing authorities".

**18.** In regulation 19 (alteration following a ballot)—

(a) in paragraph (1)—

(i) for "a local authority BRS-BID body is" substitute "one or more local authority BRS-BID bodies are"; and

(ii) for "the relevant billing authority" substitute "the relevant billing authorities"; and

(b) in paragraph (3)(a) for "the billing authority" substitute "the relevant billing authorities".

**19.** For regulation 20 (termination of BRS-BID arrangements) substitute—

"**Termination of BRS-BID arrangements**

**20.**—(1) The lead authority may terminate BRS-BID arrangements where in the opinion of the authority, the BRS-BID body will have insufficient finances to meet its liabilities for the current chargeable period and the authority has—

(a) offered the BRS-BID body a reasonable opportunity to arrange for financing the shortfall or for a reduction in the works or services under the BRS-BID arrangements which is sufficient to offset the shortfall; and

(b) given those persons who are liable to the BRS-BID levy an opportunity, at a public meeting, to make representations in relation to the termination of the BRS-BID arrangements.

(2) Any of the relevant billing authorities may terminate BRS-BID arrangements where that authority is unable, due to any cause beyond the control of the authority, to provide works or services which are necessary for the BRS-BID to continue and the authority has—

(a) consulted each of the other relevant billing authorities;

(b) where there is a BRS-BID body, consulted the BRS-BID body and conducted a consultation with such representatives of the business community for the geographical area of the BID as the relevant billing authorities consider appropriate; and

(c) where one or more local authority BRS-BID bodies are responsible for implementing the BRS-BID arrangements, conducted a consultation with such representatives of the business community for the geographical area of the BID as the relevant billing authorities consider appropriate.

(3) Subject to paragraph (4), the BRS-BID body or, where one or more local authority BRS-BID bodies are responsible for implementing the BRS-BID arrangements, the relevant billing authority or authorities concerned, may terminate the BRS-BID arrangements where—

(a) the works or services to be provided under the BRS-BID arrangements are no longer required; or

(b) the BRS-BID body or any local authority BRS-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 BRS-BID to continue.

(4) The BRS-BID body or, where one or more local authority BRS-BID bodies are responsible for implementing the BRS-BID arrangements, the relevant billing authority or authorities concerned, shall take no steps to terminate the BRS-BID arrangements until—

(a) where there is a BRS-BID body, it has consulted each of the relevant billing authorities and conducted a consultation with such representatives of the business community for the geographical area of the BID as those authorities consider appropriate; and

(b) where one or more local authority BRS-BID bodies are responsible for implementing the BRS-BID arrangements, the relevant billing authority or authorities concerned have conducted a consultation with such representatives of the business community for the geographical area of the BID as that authority or those authorities consider appropriate.

(5) The lead authority or any of the relevant billing authorities, as the case may be, shall notify the BRS-BID body and all the other relevant billing authorities in writing of its intention to terminate the BRS-BID arrangements under paragraphs (1) to (3) at least 28 days before the date of the termination.

(6) The BRS-BID body shall notify the lead authority in writing of its intention to terminate the BRS-BID arrangements under paragraph (3) at least 28 days before the date of termination.

(7) Where BRS-BID arrangements are terminated under this regulation or where the BRS-BID arrangements otherwise come to an end, the lead authority shall, as soon as is

reasonably practicable, give notice of the termination in writing to each person liable for the BRS-BID levy and the notice shall include an explanation of whether a repayment under regulation 13(4) is to be made."

**20.** For regulation 21 (expenses of the ballot holder) substitute—

"**Expenses of the ballot holder**

**21.** All expenditure properly incurred by the ballot holder in relation to the holding of a ballot under these Regulations shall be paid by the relevant billing authorities in the proportions calculated in accordance with the formula—

$$A \times B$$

where—

A is the percentage of hereditaments in respect of which persons are eligible to vote in the ballot that fall within the relevant billing authority's area; and

B is the total expenditure properly incurred by the ballot holder."

**21.** In Schedule 1 (content of BRS-BID proposals)—

(a) in paragraph 1(1)(b) for "the relevant billing authority" substitute "each relevant billing authority";

(b) at the end of paragraph 1(1)(c) insert "and details of the local authority boundaries within that area";

(c) in paragraph 2(b) after "the geographical area of the BID," insert "details of the local authority boundaries within the area,";

(d) in paragraph 3(1)(b) for "the relevant billing authority" substitute "each relevant billing authority"; and

(e) at the end of paragraph 3(1)(c) insert "and details of the local authority boundaries within that area".

**22.** In Schedule 2 (rules for BRS-BID ballots) in paragraph 2(3) for "the relevant billing authority" substitute "all of the relevant billing authorities".

**23.** In Schedule 3 (the keeping of the BRS-BID revenue account) in paragraph 2 in item 1 for "the authority" substitute "all of the relevant billing authorities".

**24.** In Schedule 4 (imposition, administration, collection, etc)—

(a) unless otherwise provided for by this paragraph, any reference to a billing authority or to a relevant billing authority is to be read as a reference to the particular billing authority for the area in which the hereditament concerned is situated;

(b) in paragraph 2(1) after "who is liable for the BRS-BID levy" insert "in respect of a hereditament within that authority's area"; and

(c) in paragraph 3(2)(a) for "the billing authority" substitute "the lead authority".

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Schedule 2 to the Business Rate Supplements Act 2009 makes provision for "property owner" business improvement districts (BRS-BID arrangements) as areas within which projects specified in the BRS-BID arrangements are to be carried out for the benefit of that district or those who live, work or carry on any activity in the district. Those projects are to be financed (in whole or in part) by a levy imposed on the persons with a relevant property interest in the district. BRS-BID arrangements may only be established where those entitled to vote approve the BRS-BID proposals. These Regulations make supplemental provision.

Regulation 3 specifies the type of property interest that may be specified in BRS-BID arrangements. Regulations 5 and 6 and Schedule 1 specify the persons who may draw up BRS-BID proposals and procedures to be followed in connection with drawing up the proposals.

Regulation 7 provides that the returning officer for local elections in the billing authority area is to be the ballot holder for any ballot in respect of BRS-BIDs required under these Regulations and regulation 8 and Schedule 2 make provision for the arrangements for holding a ballot and the conduct of a ballot. Regulation 9 provides for who is entitled to vote in a ballot and regulation 10 specifies how the result of the ballot is to be determined.

Regulation 11 confers a power on the Secretary of State to declare a ballot void in cases of material irregularity and connected procedures. Regulation 12 enables a billing authority to recover the costs of a BRS-BID ballot or a renewal ballot from the BRS-BID proposer or BRS-BID body in the prescribed circumstances.

Regulation 13 provides for the person who draws up the proposals for the BRS-BID arrangements to draw up a voter list of those eligible to vote in the ballot. Provision is also made for inspection of the information to any person, for copies to be given to the ballot holder and certain persons for the purposes of canvassing and for the restriction of the use of the information.

Regulation 14 prescribes the circumstances in which a billing authority may veto BRS-BID proposals, the period within which this is to be done and matters to which the authority is to have regard in deciding whether to exercise the veto. Regulation 15 makes provision in relation to appeals against the exercise of the veto.

Regulations 16 and Schedule 3 make further provision in relation to the BID Revenue Account.

Regulation 17 and Schedule 4 make provision with respect to the imposition, administration, collection, recovery and application of the BRS-BID levy. The provisions in Schedule 4 are based on the rules for the non-domestic rates in the Non-Domestic Rating (Collection and Enforcement)(Local Lists) Regulations 1989 (S.I. 1989/1058) and the Non-Domestic Rating (Collection and Enforcement)(Miscellaneous Provisions) Regulations 1989 (S.I. 1989/1060).

Provision is also made for the alteration of BRS-BID arrangements without or with an alteration ballot (regulations 18 and 19 respectively) and the circumstances in which BRS-BID arrangements may be terminated (regulation 20).

Regulation 21 provides for the expenses of the ballot holder in holding ballots under the Regulations to be paid by the billing authority.

Regulation 22 and Schedule 5 provide for joint arrangements where the business improvement district spans more than one local authority.

Regulation 23 provides for electronic communication of notices etc. This provision does not apply to notices under Schedule 4 because that Schedule makes specific provision for electronic communication of demand notices etc.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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