

# PLANNING ETC. (SCOTLAND) ACT 2006

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## EXPLANATORY NOTES

### THE ACT – SECTION BY SECTION

#### **Part 9 – Business Improvement Districts**

##### *Section 39 - Entitlement to vote in ballot*

196. **Section 39** sets out how entitlement to vote on a BID is determined.
197. **Subsection (2)** requires the BID proposer to provide a statement to the local authority that lists all those who will be eligible to participate in the BID ballot.
198. **Subsections (4) and (5)** provide that those eligible to vote are either the eligible ratepayers of the properties in the BID area, or where the proposer for the BID so states, both the eligible ratepayers and other eligible persons, as defined. The BID proposer has the option not to seek the involvement of these other eligible persons, so only ratepayers would be involved. There is also the option to state that only persons in respect of particular property descriptions are involved, for example, all retail shops.
199. **Subsection (8)** allows Ministers to alter, by regulations, who apart from eligible ratepayers are eligible to vote.
200. Where other persons apart from ratepayers are involved, section 39 requires that they are initially a tenant with a lease which has at least 5 years left to run. The "eligible tenant" will be the first tenant up the chain, but not being the ratepayer, because these are mutually exclusive categories. If there are no such tenants, then the real owner, being simply the person with right to the property, will be included. The owner for these purposes will include a heritable creditor (secured lender) in possession of a property.