

SCHEDULE 2

RULES FOR BID BALLOTS, RENEWAL BALLOTS AND ALTERATION BALLOTS

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 42 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 earlier than 56 days, and no later than 90 days, from the date on which the ballot holder published the notice required by paragraph 3(a).

(2) No later than 42 days before the 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), they shall notify the billing body, the local authority, and the BID proposer or BID body, as the case may be, in writing of the new day of the ballot and the reasons for the postponement and the ballot holder shall take reasonable steps to publicise the new day of the ballot.

(4) A re ballot shall not take place until at least 1 year after the date of the original 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 5 p.m. 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, that person's proxy a statement which—
 - (i) explains the arrangements for the ballot;
 - (ii) explains that regulation 5(3) allows that person to request a copy of the BID proposals from the BID proposer; and
 - (iii) provides the name and address of the BID proposer; and
- (d) send to the Scottish Ministers 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 BID ballot shall have the votes allocated which can be cast for the purposes of the first condition to be satisfied for approval by a BID ballot, in accordance with regulation 10.

(3) The rateable value of relevant property for the purposes of a BID ballot, renewal ballot, alteration ballot or re ballot, as the case may be, shall be the rateable value on the valuation roll as at

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5 p.m. on the day of the ballot and no account shall be taken of any alteration to the rateable value which is not shown on the valuation roll 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 that person in a ballot.

(3) Where the person entitled to vote applies to the ballot holder for the appointment of a proxy to vote for that person in a particular ballot, the ballot holder shall make the appointment if 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 their proxy;
- (b) state the address of the applicant's relevant property or properties;
- (c) be signed by the applicant; and
- (d) contain a statement by the applicant that they have 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 5 p.m. on the tenth day before the day of the ballot.

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

- (a) confirm by notice in writing to the person entitled to vote that the proxy has been appointed, their name and their 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 their 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 they no longer wish to act as proxy.

(10) A notice under sub paragraph (9) by a 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 5 p.m. on the fifth day before the date of the poll at that election.

(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 they no longer wish to act as proxy; and
- (c) remove the name of the proxy from the record kept under paragraph 3(b).

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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 to that 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 relevant property in respect of which a vote is cast.

Notification of requirement of secrecy

7. The ballot holder shall make such arrangements as they think 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 BID ballot, or a re ballot in relation to a BID ballot (as the case may be), shall include the following wording, or wording substantially to the like effect—

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

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

YES		NO	
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This vote is in respect of—

[insert address of the relevant property of the person entitled to vote]

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If you are casting your vote as the owner or tenant of the property, please tick this box

Please bear in mind only one numerical vote is granted to eligible owners or tenants for all the properties they own or lease in the area. The rateable value vote however is specific to each property.

Name of eligible owner or tenant (in block capitals).....

I confirm that I am entitled to vote in respect of this relevant property

Signed.....

Name (in block capitals).....

Position..... (NB 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 5 p.m. 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 Business Improvement District arrangements for [insert a list of the names of the streets in the geographical area covered by the business improvement district] for a further period of [specify duration of the proposed renewed BID arrangements]?

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

YES		NO	
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This vote is in respect of –

[insert address of the relevant property of the person entitled to vote]

If you are casting your vote as the owner or tenant of the property, please tick this box

Please bear in mind only one numerical vote is granted to eligible owners or tenants for all the properties they own or lease in the area. The rateable value vote however is specific to each property.

Name of eligible owner or tenant (in block capitals).....

I confirm that I am entitled to vote in respect of this relevant property

Signed.....

Name (in block capitals).....

Position..... (NB 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 5 p.m. on [insert the day of the ballot]

(7) Each ballot paper for an alteration ballot, or re-ballot in relation to an alteration ballot (as the case may be), shall include the following wording, or wording substantially to the like effect–

Are you in favour of the alteration of the Business Improvement District arrangements for [insert a list of the names of the streets in the geographical area covered by the business improvement district]?

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

YES		NO	
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This vote is in respect of –

[insert address of the relevant property of the person entitled to vote]

If you are casting your vote as the owner or tenant of the property, please tick this box

Please bear in mind only one numerical vote is granted to eligible owners or tenants for all the properties they own or lease in the area. The rateable value vote however is specific to each property.

Name of eligible owner or tenant (in block capitals).....

I confirm that I am entitled to vote in respect of this relevant property

Signed.....

Name (in block capitals).....

Position..... (NB 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 5 p.m. 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 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—
- (a) eligible ratepayer entitled to vote in the BID ballot, renewal ballot, alteration ballot or re ballot, as the case may be, in respect of each relevant property for which that ratepayer is entitled to vote; and
 - (b) eligible person (not being a ratepayer) entitled to vote in the BID ballot, renewal ballot, alteration ballot or re ballot, as the case may be.
- (2) The address to which the ballot paper is to be sent is—
- (b) the address of the relevant property or the principal place of business within Scotland of the person entitled to vote; or
 - (c) 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 BID arrangements 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”).

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- (4) For the purpose of delivering the ballot papers, the ballot holder may use—
- (a) a universal service provider (as defined in the Postal Services Act 2000)(1);
 - (b) any other holder of a licence under Part 2 of the Postal Services Act 2000 whose licence permits it to convey such papers from one place to another; or
 - (c) any other means of conveyance and delivery for which a licence is not required, pursuant to section 7 of the Postal Services Act 2000.
- (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 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 their ballot paper in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) that voter may return (either by hand or by post) to the ballot holder the spoilt ballot paper.

(2) If on receipt of the spoilt ballot paper later than the date that is 3 working days prior to the day of the ballot, the ballot holder is satisfied as to the voter’s identity, the ballot holder he shall issue another ballot paper.

(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 voter instead of delivering it in accordance with paragraph 10.

Lost ballot papers

12.—(1) Where a voter has not received their ballot paper by the seventh working day before the day of the ballot, that voter 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 later than the date that is 3 working days prior to 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 voter applies in person, the ballot holder may hand a replacement ballot paper to that voter 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 5 p.m. 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.

(1) 2000 c. 26.

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

Rejected ballot papers

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

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

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

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

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

Decisions on ballot papers

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

Declaration of result

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

- (a) the total number of votes cast in the ballot excluding any votes given on ballot papers rejected under paragraph 15;
- (b) the aggregate rateable value of each relevant property 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;
- (d) the total number of votes cast against the question asked in the ballot;
- (e) the aggregate rateable value of each relevant property in respect of which a person voting in the ballot has voted in favour of the question asked; and
- (f) the aggregate rateable value of each relevant property in respect of which a person voting in the ballot has voted against 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) give public notice of the matters so certified as soon as practicable and within 7 days after the counting of the votes.

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Validity

18.—(1) No 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 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 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 BID arrangements, renewed BID arrangements or altered 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 6 months after the day of the ballot and then, unless otherwise directed by order of a court, shall cause them to be destroyed.