

2013 No. 2265

LOCAL GOVERNMENT, ENGLAND

**The Business Improvement Districts (England) (Amendment)
Regulations 2013**

<i>Made</i>	- - - -	<i>6th September 2013</i>
<i>Laid before Parliament</i>		<i>12th September 2013</i>
<i>Coming into force</i>	- -	<i>7th October 2013</i>

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by sections 42, 47(4), 48, and 49 of the Local Government Act 2003(a), makes the following Regulations:

Application, citation and commencement

1. These Regulations, which apply in England only, may be cited as the Business Improvement Districts (England) (Amendment) Regulations 2013 and come into force on 7th October 2013.

Amendment to the Business Improvement Districts (England) Regulations 2004

2. The Business Improvement Districts (England) Regulations 2004(b) are amended as follows.

Joint Arrangements

3.—(1) In regulation 1 (interpretation, etc) after the definition of “hereditament” insert—

““joint BID arrangements” has the meaning given in regulation 1A;”

(2) After regulation 1 insert—

“Joint arrangements

1A.—(1) Two or more billing authorities may make BID arrangements (“joint BID arrangements”) under Part 4 of the Act with respect to a BID comprising all or part of the area of each of the authorities.

(2) In their application to joint BID arrangements, Part 4 of the Act and these Regulations have effect subject to the modifications in Schedule 5.”

(3) After Schedule 4 insert Schedule 5 as set out in the Schedule to these Regulations.

Electronic communications

4. In regulation 1 for paragraph (a) of the definition of “electronic communication” substitute—

(a) 2003 c.26.
(b) S.I. 2004/2443.

“(a) by means of an electronic communications service (within the meaning of the Communications Act 2003)(a); or”.

Billing authority BID proposals

5.—(1) In regulation 1 in the definition of “BID proposer” at the end insert “other than a relevant billing authority;”.

(2) In regulation 3 (BID proposer) after paragraph (3) insert—

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

(3) In regulation 4 (BID proposals, etc and preliminary procedures)—

(a) after paragraph (2) insert—

“(2A) Where a relevant billing authority draws up 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 BID arrangements and the contingency margin included in the budget).”

(b) in paragraph 3(a) after “a BID proposer” insert “or a relevant billing authority”.

(4) In regulation 5(1) (instructions to hold a BID ballot, etc)—

(a) at the end of sub-paragraph (b) omit “or”; and

(b) at the end of sub-paragraph (c) insert—

“; or

(d) decides to seek approval of BID proposals which it has drawn up;”.

(5) In paragraph 1(3) of Schedule 1 (content of BID proposals, etc) for “BID proposer” substitute “BID proposals” and omit “it proposes”.

(6) In paragraph 3(c)(ii) of Schedule 2 (rules for BID ballots, etc) after “BID proposer” insert “or, where the relevant billing authority has drawn up the BID proposals, from that authority;”.

(7) In paragraph 3(c)(iii) of Schedule 2 after “BID proposer” insert “or, where the relevant billing authority has drawn up the BID proposals, the name and address of that authority;”.

BID Revenue Account

6. In paragraph 1 of Schedule 3 (the keeping of the BID revenue account)—

(a) in item 1 for “paid” substitute “receivable”;

(b) in item 2 for “received” substitute “receivable”; and

(c) in item 3 sub-paragraph (a) for “item 2” substitute “item 3”.

Enforcement

7. In Schedule 4 (imposition, administration, collection, recovery and application of the BID levy)—

(a) in paragraph 9(1) for “Schedules 2 to 4” substitute “Schedules 3 and 4”;

(b) in paragraph 13(1) for “Schedules 2 to 4” substitute “Schedules 3 and 4”; and

(c) for paragraph 14(5) substitute—

“(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

(a) Section 32 was amended by S.I. 2001/1210.

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.”

Signed by authority of the Secretary of State for Communities and Local Government

Brandon Lewis
Parliamentary Under Secretary of State
Department for Communities and Local Government

6th September 2013

SCHEDULE

Regulation 3

“SCHEDULE 5

Regulation 1A

Modification of the Act and these Regulations in respect of joint BID arrangements

Modification of Part 4 of the Local Government Act 2003

1. Part 4 of the Act applies in relation to joint 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”;
- (c) in section 46(4) (liability for BID levy) for “which made the arrangements” substitute “in whose area the hereditament in respect of which that person is liable is situated.”;
- (d) in section 47(1) (BID revenue account) for “A billing authority which has made BID arrangements” substitute “The lead authority”;
- (e) in section 51(2) (power of veto) for “The billing authority to which the proposals relate” substitute “Any of the billing authorities to which the proposals relate”;
- (f) for section 51(4) substitute—
 - “(4) If a billing authority vetoes 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.”;
- (g) in section 53 (commencement of BID arrangements)—
 - (i) in subsection (2) for “The billing authority concerned” substitute “The billing authorities concerned”;

(a) 1986 c.45.
(b) S.I. 1994/2421.

- (ii) in subsection (7)(a) for “the billing authority concerned” substitute “the billing authorities concerned”; and
- (h) in section 59(1) (interpretation of Part 4) at the appropriate place insert—
 - ““lead authority” is to be construed in accordance with regulation 3A of the Business Improvement Districts (England) Regulations 2004 as that regulation has effect by virtue of Schedule 5 to those Regulations.”

Modification of these Regulations

2. These Regulations apply in relation to joint BID arrangements with the following modifications.

3. In regulation 1 (interpretation)—

- (a) after the definition for “joint BID arrangements”, insert—
 - ““lead authority” is to be construed in accordance with regulation 3A;”;
- (b) for the definition of “local authority BID body” substitute—
 - ““local authority BID body”, in relation to BID arrangements, means—
 - (a) a relevant billing authority which is responsible for implementing the 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 BID arrangements;”;
- (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;”.

4. In regulation 3 (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 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”.

5. After regulation 3, insert—

“Lead authority

3A.—(1) In relation to BID proposals, the lead authority,—

- (a) where a billing authority draws up the BID proposals, is to be that authority;
- (b) where two or more billing authorities jointly draw up the 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 3(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 3(2), the authority with the greatest number of hereditaments in the proposed BID in respect of which non-domestic ratepayers are to be liable for the proposed BID levy is the lead authority.

(4) Where there is a proposal to alter BID arrangements to extend 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 BID arrangements.

(5) As soon as reasonably practicable after the lead authority has been determined, it must notify the BID proposer or the 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 BID arrangements including where the BID arrangements are renewed or altered.

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

6. In regulation 4 (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 BID proposals, renewal proposals or alteration proposals to each of the other relevant billing authorities.”;

and
- (c) in paragraph (4)—
 - (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”.

7. In regulation 5 (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 BID body is” substitute “one or more local authority 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;”;
- (d) after paragraph (2) insert—

“(3) Where the lead authority instructs the ballot holder to hold a 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 BID.”

8. In regulation 6(1) (ballot holder), for “the relevant billing authority” substitute “the lead authority”.

9. In regulation 9 (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”.

10. In regulation 10 (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 BID proposer or the 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 20.”

11. In regulation 11 (canvassing)—

- (a) in paragraph (1)—
 - (i) for “after instructing the ballot holder” substitute “after the ballot holder has been instructed”; and
 - (ii) for the first reference to “the relevant billing authority” substitute “each of the relevant billing authorities”;
- (b) in paragraph (1)(a) for “the geographical area to which any BID proposals, alteration proposals or renewal proposals, as the case may be, relate” substitute “the relevant area”;
- (c) in paragraph (1)(b) for “as soon after instructing as practicable” substitute “as soon as practicable after the ballot holder has been instructed”;
- (d) after paragraph (1)(c) insert—

“(d) where it is not the lead authority, provide a copy of the document referred to in sub-paragraph (a) to the lead authority.”;

- (e) after paragraph (1) insert—
 - “(1A) In paragraph (1) “relevant area” in relation to a relevant billing authority means—
 - (a) if the BID proposals, alteration proposals or renewal proposals relate to a part of the authority’s area, that part; and
 - (b) if the BID proposals, alteration proposals or renewal proposals relate to the whole of the authority’s area, the authority’s area.”;

- (f) for paragraph (2) substitute—
 - “(2) On receiving a request (made in accordance with paragraph (3)) from—
 - (a) the BID proposer or BID body, as the case may be; or
 - (b) any person who, or any group of persons which, represents 5 per cent or more of the persons who are to be liable for any proposed BID levy,

the lead authority shall supply a copy of a document containing both the information it has prepared in respect of its own area and the information it has received from the other relevant billing authorities under paragraph (1) to the person or group of persons concerned in data form.”;

- (g) in paragraph (3) for “the relevant billing authority” in each place substitute “the lead authority”;

- (h) in paragraph (5) for “The relevant billing authority” substitute “The lead authority”;
- (i) in paragraph (6)—
 - (i) for “The relevant billing authority” substitute “The lead authority”;
 - (ii) for “the authority” substitute “each of the relevant billing authorities”; and
- (j) after paragraph (6) insert—

“(7) The lead authority shall ensure that amounts collected by way of a charge imposed under paragraph (5) are shared between all of the relevant billing authorities in proportion to the costs incurred or likely to be incurred by each of those authorities in dealing with requests and supplying information under this regulation.”

12. In regulation 12 (veto of 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”.

13. In regulation 13 (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”.

14. In regulation 14 (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 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 BID levy at the point that the 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.”

15. For regulation 15 (administration of the BID levy etc) substitute—

“Administration of the BID levy etc

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

16. In regulation 16 (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 BID body is” substitute “one or more local authority BID bodies are”; and
- (c) in paragraph (5) for “the billing authority” substitute “the relevant billing authorities”.

17. In regulation 17 (alteration following a ballot)—

- (a) in paragraph (1)—
 - (i) for “a local authority BID body is” substitute “one or more local authority 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”.

18. For regulation 18 (termination of BID arrangements) substitute—

“Termination of BID arrangements

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

- (a) offered the BID body a reasonable opportunity to arrange for financing the shortfall or for a reduction in the works or services under the BID arrangements which is sufficient to offset the shortfall; and
- (b) given those persons who are liable to the BID levy an opportunity, at a public meeting, to make representations in relation to the termination of the BID arrangements.

(2) Any of the relevant billing authorities may terminate 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 BID to continue and the authority has—

- (a) consulted each of the other relevant billing authorities;
- (b) where there is a BID body, consulted the 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 BID bodies are responsible for implementing the 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 BID body or, where one or more local authority BID bodies are responsible for implementing the BID arrangements, the relevant billing authority or authorities concerned, may terminate the BID arrangements where—

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

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

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

(a) where there is a 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 BID bodies are responsible for implementing the 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 BID body and all the other relevant billing authorities in writing of its intention to terminate the BID arrangements under paragraphs (1) to (3) at least 28 days before the date of the termination.

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

(7) Where BID arrangements are terminated under this regulation the lead authority shall, as soon as is reasonably practicable, give notice of the termination in writing to each person liable for the BID levy and the notice shall include an explanation of whether a repayment under regulation 14(4) is to be made.”

19. In regulation 19 (information) for “The relevant billing authority” substitute “Each of the relevant billing authorities”.

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

“Expenses of the ballot holder

20. 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 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 BID ballots)—

- (a) in the table in paragraph 1 for “the billing authority” substitute “the lead authority”; and
- (b) in paragraph 2(3) for “the relevant billing authority” substitute “the lead authority”.

23. In Schedule 3 (the keeping of the 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 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)

These Regulations amend the Business Improvement Districts (England) Regulations 2004 (“the 2004 Regulations”) to enable two or more billing authorities to make Business Improvement District arrangements in respect of a business improvement district which spans authority boundaries. The key provisions relating to business improvement districts are contained in Part 4 of the Local Government Act 2003.

Regulation 3 establishes that two or more billing authorities may make joint Business Improvement District arrangements covering areas comprising all or part of the area of each of the authorities concerned. The new Schedule 5, which will be inserted into the 2004 Regulations by the Schedule, sets out how the provisions of Part 4 of the Local Government Act 2003 and the remaining provisions of the 2004 Regulations are modified in their effect when joint Business Improvement District arrangements are concerned.

Regulation 5 amends the 2004 Regulations to clarify the procedures to be followed where a billing authority draws up the Business Improvement District proposals.

Regulations 4, 6 and 7 update or correct certain provisions in the 2004 Regulations.

No impact assessment has been prepared for this instrument as no new impact on the private or voluntary sector is foreseen.

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