

## 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”;
- (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

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- (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—

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- “(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

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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.”;
  - (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

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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)—

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- (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”.