

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2005 No. (W.)

LOCAL GOVERNMENT, WALES

The Business Improvement Districts (Wales) Regulations 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to business improvement districts (BIDs). BIDs are provided for in Part 4 of the Local Government Act 2003 as areas within which projects specified in the 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 BID levy imposed on the non-domestic ratepayers, or a class of such ratepayers in the district. A BID may only be established where those entitled to vote approve the BID proposals.

Regulation 2 provides for the billing authority to supply information from its non-domestic rates records to persons developing BID proposals. Authorities may charge for supply of this information.

Regulation 3 specifies the persons who may draw up BID proposals and regulations 4 and 5 specify the procedures to be followed in connection with drawing up of BID proposals and Schedule 1 specifies the matters to be included in them.

Regulation 6 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 BIDs required under the Act or these Regulations and regulation 7 and Schedule 2 make provision for the arrangements for holding a ballot and the conduct of a ballot. Regulation 8 provides for who is entitled to vote in a ballot.

Regulation 9 confers a power on the National Assembly to declare a ballot void in cases of material irregularity and procedures connected therewith.

Regulation 10 enables a billing authority to recover the costs of a BID ballot or a renewal ballot from the BID proposer or BID body in the prescribed circumstances.

Regulation 11 provides for the billing authority to supply information from its non-domestic rates records for the purpose of canvassing in relation to a ballot. Authorities may charge for supply of this information. Provision is also made for inspection of the information by any person and for the restriction of the use of the information.

Regulation 12 prescribes the circumstances in which a billing authority may veto 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 13 makes provision in relation to appeals against the exercise of the veto.

Regulation 14 and Schedule 3 make further provision in relation to the BID Revenue Account.

Regulation 15 and Schedule 4 make provision with respect to the imposition, administration, collection, recovery and application of the 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 (Miscellaneous Provisions) Regulations 1990 (S.I. 1990/145).

Provision is also made for the alteration of BID arrangements without or with an alteration ballot (regulations 16 and 17 respectively) and the circumstances in which BID arrangements may be terminated (regulation 18).

Regulation 19 provides for the supply of information by the billing authority to the ballot holder for the purposes of carrying out his or her functions under the Regulations. Regulation 20 provides for the expenses of the ballot holder in holding ballots under the Regulations to be paid by the billing authority.

Regulation 21 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.

S T A T U T O R Y I N S T R U M E N T S

2005 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The Business Improvement
Districts (Wales) Regulations 2005**

Made *2005*

Coming into force *13 May 2005*

The National Assembly for Wales, in exercise of the powers conferred by sections 47(4), 48(1) and (2), 49(2), 51(2) and (3), 52(2), 54(4) and (5), 55(1) and (2), 56(1), 58(2) and 123(2) of the Local Government Act 2003(**1**), hereby makes the following Regulations:

Application, name, commencement and interpretation

1.—(1) These Regulations, which apply in Wales, may be cited as the Business Improvement Districts (Wales) Regulations 2005 and shall come into force on 13 May 2005.

(2) In these Regulations —

“the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972(**2**);

“the 1988 Act” (“*Deddf 1988*”) means the Local Government Finance Act 1988(**3**);

“the 1989 Regulations” (“*Rheoliadau 1989*”) means the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(**4**);

“the Act” (“*Y Ddeddf*”) means the Local Government Act 2003;

“alteration ballot” (“*pleidlais ddiwygio*”) has the meaning given in regulation 17;

(**1**) 2003 c. 26. See section 59(1) for the definition of “prescribed”.

(**2**) 1972 c.70.

(**3**) 1988 c. 41.

(**4**) S.I. 1989/1058; amendments are made by S.I. 1990/145, 1991/141, 1991/1127, 1992/474, 1992/1512, 1993/774, 1993/894, 1993/1493, 1995/212, 1998/3089 and 2003/1714.

“alteration proposals” (“*cynigion diwygio*”) means proposals in relation to the alteration of BID arrangements in accordance with regulation 17;

“the amount payable” (“*swm sy'n daladwy*”) 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 which 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 Act by virtue of that person falling within the description of persons liable to the BID levy in the 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” (“*trefnydd y bleidlais*”) has the meaning given in regulation 6;

“barcode” (“*cod bar*”) means marks —

- (a) appearing on the ballot paper and containing in an encoded form information relating to that voter and that 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” (“*AGB*”) means business improvement district;

“BID ballot” (“*pleidlais AGB*”) means a ballot under section 49(1) of the Act;

“BID body” (“*corff AGB*”) means, where a local authority BID body is not responsible for implementing the BID arrangements, the body (whether corporate or not corporate) responsible for the implementation of the arrangements;

“BID proposer” (“*cynigydd yr AGB*”) means a person who draws up BID proposals;

“commencement date” (“*dyddiad cychwyn*”) means, subject to regulation 9(12), the day on which, in accordance with section 53 of the Act, the BID arrangements are to come into force;

“data form” (“*ar ffurf data*”) means information which is in a form which is capable of being processed by means of equipment operating automatically in response to instructions given for that purpose;

“the day of the ballot” (“*diwrnod y bleidlais*”) means the day determined by the ballot holder, in accordance with paragraph 2 of Schedule 2;

“demand notice” (“*hysbysiad galw am dalu*”) means the notice required to be served under paragraph 2(1) of Schedule 4;

“electronic communication” (“*cyflwyno...yn electronig*”) 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 a telecommunication system (within the meaning of the Telecommunications Act 1984(5)); or

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

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

“liability order” (“*gorchymyn atebolrwydd*”) has the meaning given in regulation 10 of the 1989 Regulations;

“local authority BID body” (“*corff AGB llywodraeth leol*”) 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(7)) is responsible for implementing the BID arrangements, that person;

“National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“person entitled to vote” (“*person sydd â hawl i bleidleisio*”) has the meaning given in regulation 8;

“re-ballot” (“*ail bleidlais*”) means a BID ballot, renewal ballot, or alteration ballot, as the case may be, which is required to be arranged in accordance with regulation 9(10);

“relevant billing authority” (“*awdurdod bilio perthnasol*”) means the billing authority for the geographical area of the BID;

(5) 1984 c. 12.

(6) S.I. 1989/1060; relevant amendments are made by S.I. 1993/616.

(7) 1989 c. 42.

“renewal ballot” (*“pleidlais adnewyddu”*) means a ballot under section 54(2) of the Act;

“renewal proposals” (*“cynigion adnewyddu”*) means proposals in relation to the renewal of the BID arrangements under section 54(2) of the Act;

“veto” (*“feto”*) means a veto by the relevant billing authority in accordance with section 51(2) of the Act;

“veto notice” (*“hysbysiad feto”*) means a notice given by a billing authority in accordance with section 51(4) of the Act; and

“working day” (*“diwrnod gwaith”*) 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(8).

(3) In these Regulations a reference —

- (a) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (c) in a paragraph to a lettered or numbered subparagraph is to the sub-paragraph in that paragraph bearing that letter or number.

Obtaining information from billing authority for the purpose of developing BID proposals

2.—(1) On receiving a request (made in accordance with paragraph (2)) from any person who is developing BID proposals, the relevant billing authority must —

- (a) prepare a document showing (as far as the relevant billing authority is able to ascertain from its non-domestic rates billing records at that time) the name of each non-domestic ratepayer and the address and rateable value of each hereditament which is occupied, or (if unoccupied) owned, by him or her in the geographical area of the proposed BID; and
- (b) supply a copy of the information in the document to the person concerned in data form.

(2) A request under paragraph (1) must —

- (a) be made in writing to the relevant billing authority;
- (b) confirm that the person making the request intends to make use of the information

(8) 1971 c. 80.

requested only for the purpose of developing the BID proposal described in the request;

- (c) provide a summary of the nature of the BID proposals to be developed;
- (d) provide a description of the geographical area of the proposed BID; and
- (e) be accompanied by the fee (if any) imposed by the relevant billing authority under paragraph (4).

(3) No person may —

- (a) disclose to any person any information supplied to it under paragraph (1);
- (b) make use of any such information,

otherwise than for the purpose of developing the BID proposal described in the request made under paragraph (1).

(4) The relevant billing authority may impose a charge in respect of dealing with a request and supplying the information under this regulation on the person making the request.

(5) The relevant billing authority must ensure that the amount of a charge imposed under paragraph (4) is reasonable having regard to the costs incurred or likely to be incurred by the authority in dealing with requests and supplying information under this regulation.

BID proposer

3.—(1) The following persons may draw up BID proposals —

- (a) any person who, at the date they send BID proposals to the relevant billing authority under regulation 4(2)(a)—
 - (i) is a non-domestic ratepayer in relation to a hereditament situated in the proposed BID;
 - (ii) has an interest in land (situated in the area to be comprised in such proposals) as freeholder, mortgagee or lessee, or directly or indirectly receives rent for the land (whether or not they are a non-domestic ratepayer in relation to that land); or
 - (iii) is a body (whether corporate or not corporate) one of whose purposes is or includes developing BID proposals; and
- (b) the relevant billing authority.

(2) A BID proposer must, at least 84 days before sending the notice required under regulation 4(2)(a)(ii), notify the relevant billing authority and the National Assembly in writing of the proposer's

intention of asking the relevant billing authority to put the BID proposals to a ballot.

BID proposals, renewal proposals, alteration proposals and preliminary procedures

4.—(1) BID proposals, renewal proposals or alteration proposals, as the case may be, must include the matters mentioned in paragraphs 1, 2 and 3 of Schedule 1.

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

- (a) send to the relevant billing authority —
 - (i) a copy of the BID proposals, alteration proposals or renewal proposals, as the case may be, together with a summary of —
 - (aa) the consultation process it has undertaken with those persons who are to be liable for the proposed 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 BID arrangements, the predicted budget over the duration of the BID arrangements and the contingency margin included in the budget);
 - (cc) the proposed agreement to be entered into with the relevant billing authority; and
 - (dd) the financial management arrangements for the BID body, and the arrangements for periodically providing the relevant billing authority with information on the finances of the BID body; and
 - (ii) a notice requesting the relevant billing authority to instruct the ballot holder to hold a BID ballot, an alteration ballot or a renewal ballot, 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 BID proposer or, as the case may be, the BID body, has sufficient funds to meet the costs of the BID ballot, the

renewal ballot, or the re-ballot in relation to the BID ballot, or the renewal ballot, as the case may be, should it be required to do so under regulation 10.

(3) Where —

- (a) a BID proposer decides to seek approval of BID proposals in a BID ballot;
- (b) a BID body or a local authority 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 must send a copy of the 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 BID levy and who requests a copy.

(4) Where the relevant billing authority considers that the 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 must, as soon as reasonably practicable after receiving the proposals, notify the BID proposer or BID body, as the case may be, in writing explaining the nature of that conflict.

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

5.—(1) Where the relevant billing authority —

- (a) subject to paragraph (2), receives a notice under regulation 4(2)(a)(ii);
- (b) in the case where a local authority BID body is responsible for implementing the BID arrangements, decides to seek approval of alteration proposals or renewal proposals, as the case may be; or
- (c) receives a notification from the National Assembly under regulation 9(10) requiring it to arrange a re-ballot;

it must instruct the ballot holder to hold a 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 under regulation 4(2)(a)(ii), it shall not be required to instruct the ballot holder under paragraph (1) until such time as the BID proposer or BID body, as the case may be, complies with the requirements of regulation 4(1) and (2).

Ballot holder

6.—(1) The person who holds a BID ballot, renewal ballot, alteration ballot or re-ballot (“the ballot holder”) shall be the person whom the relevant billing authority has appointed under section 35 of the Representation of the People Act 1983(**9**) as the returning officer for elections to that authority.

(2) The ballot holder may by writing under his or her hand appoint one or more persons to discharge all or any of his or her functions under these Regulations.

Arrangements for holding a ballot and conduct of a ballot

7. On receipt of an instruction under regulation 5, the ballot holder must make arrangements for conducting a BID ballot, alteration ballot, renewal ballot or re-ballot, as the case may be, in accordance with Schedule 2.

Persons entitled to vote

8.—(1) A person shall be entitled to vote in a BID ballot, an alteration ballot or a re-ballot in respect of a BID ballot or an alteration ballot if, on the date the ballot holder publishes the notice under paragraph 3(a) of Schedule 2, they fall within the class of non-domestic ratepayers to be liable for the BID levy described in the BID proposals or the alteration proposals, as the case may be.

(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, they fall within the class of non-domestic ratepayers who on that date are liable for the BID levy.

(3) Where, in respect of a hereditament, more than one person is or is to be liable for the BID levy as partners or trustees the person entitled to vote in respect of that hereditament shall be the partners or trustees jointly.

Declaring a ballot void

9.—(1) Subject to paragraph (3), the National Assembly may declare void a BID ballot, renewal ballot, alteration ballot or re-ballot if it appears to it 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 National

(9) 1983 c. 2.

Assembly's opinion, means it is likely that voting in the 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 BID ballot and, in the National Assembly's opinion, it is likely that the result of the 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 National Assembly's opinion, it is likely that the result of the 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 under 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 National Assembly to exercise its powers under this regulation, specifying the reason for such a request.

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

- (a) the BID proposer or the BID body;
- (b) at least 5 per cent of the number of persons entitled to vote in the 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 National Assembly must notify the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, in writing that it has received the request and send a copy to each of them.

(6) Where two or more requests relate to the same ballot, the National Assembly may decide those requests together.

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

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

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

(12) Where the National Assembly declares void a BID ballot, a renewal ballot, an alteration ballot or a re-ballot in relation to such a ballot —

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

Payment of costs of a ballot

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

- (a) the proposals were not approved in the ballot; or
- (b) the National Assembly issues a notice under regulation 9(11) in relation to the ballot.

(2) Where paragraph (1) applies the relevant billing authority may require the BID proposer or the 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 under regulation 20.

Obtaining information from billing authority for the purpose of canvassing

11.—(1) As soon as practicable after instructing the ballot holder to hold a ballot (under regulation 5(1)), the relevant billing authority must —

- (a) prepare a document showing (as far as the relevant billing authority is able to ascertain from its non-domestic rates billing records at that time) the name of each non-domestic ratepayer and the address and rateable value of each hereditament which is occupied, or (if unoccupied) owned, by him or her in the geographical area to which any BID proposals, alteration proposals or renewal proposals, as the case may be, relate;
- (b) provide a copy of that document to the ballot holder; and
- (c) make available for inspection by any person a copy of the information in that document at its principal office during normal working hours.

(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 relevant billing authority must supply in data form a copy of the information in the document it is required to prepare under paragraph (1) to the person or group of persons concerned.

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

- (a) be made in writing to the relevant billing authority;
- (b) identify the BID ballot, alteration ballot, renewal ballot or re-ballot in relation to which the request is made;
- (c) confirm that the person or group of persons making the request intends to make use of the information requested only for the purpose of canvassing persons entitled to vote in the BID ballot, alteration ballot, renewal ballot or re-ballot identified in the request made under paragraph (2); and

(d) be accompanied by the fee (if any) imposed by the relevant billing authority under paragraph (5).

(4) No person may —

(a) disclose to any person any information supplied to it under paragraph (2);

(b) make use of any such information,

otherwise than for the purpose of canvassing persons entitled to vote in the BID ballot, alteration ballot, renewal ballot or re-ballot identified in the request made under paragraph (2).

(5) The relevant billing authority may impose a charge in respect of dealing with a request and supplying the information under this regulation on the person to whom the information is to be supplied.

(6) The relevant billing authority must ensure that the amount of a charge imposed under paragraph (5) is reasonable having regard to the costs incurred or likely to be incurred by the authority in dealing with requests and supplying information under this regulation.

Veto of BID proposals

12.—(1) For the purposes of section 51(2) of the Act, the prescribed circumstances are that the relevant billing authority is of the opinion that the BID arrangements are likely —

(a) 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) to be a significantly disproportionate financial burden on any person or class of persons (as compared to the other non-domestic ratepayers 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 BID levy; and

(ii) that burden is inequitable.

(2) For the purposes of section 51(2) of the Act, the prescribed period is 15 working days from the day of the ballot.

(3) For the purposes of section 51(3) of the Act, the prescribed matters to which the relevant billing authority must have regard in deciding whether to exercise its veto are —

(a) the level of support (as evidenced by the result of the BID ballot or re-ballot of a BID ballot, as the case may be) for the 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 BID levy and how the financial burden of the BID is to be distributed amongst ratepayers in the geographical area of the BID;
- (d) the extent to which the BID proposer discussed the BID proposals with the authority before submitting the BID proposals to the authority under regulation 4; and
- (e) the cost incurred by any person up to the end of the period prescribed in paragraph (2) in developing the BID proposals and canvassing in relation to the BID proposals.

Appeal against veto

13.—(1) A person (“the appellant”) who wishes to appeal against a veto under section 52(1) of the Act must serve on the National Assembly, within 28 days of the veto notice being given by the relevant billing authority under section 51(4) of the Act, a notice in writing (“the appeal notice”) accompanied by a statement of the reasons for making the appeal.

(2) On receipt of the appeal notice the National Assembly must —

- (a) notify the appellant and the relevant billing authority in writing that it 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 National Assembly may decide those appeals together.

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

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

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

(8) In deciding whether to allow an appeal, the National Assembly must take into account the following matters —

- (a) the level of support (as evidenced by the result of the BID ballot or re-ballot of a BID ballot, as the case may be) for the BID proposals;
- (b) the nature and extent of the conflict referred to in regulation 12(1)(a);
- (c) in relation to regulation 12(1)(b), the structure of the proposed BID levy and how the financial burden of the BID is to be distributed amongst ratepayers in the geographical area of the BID;
- (d) the extent to which the BID proposer discussed the BID proposals with the authority before submitting the BID proposals to the authority under regulation 4;
- (e) whether, after the date on which the notice under regulation 4(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 BID proposals; and
- (f) the cost incurred by any person up to the end of the period prescribed in regulation 12(2) in developing the BID proposals and canvassing in relation to the BID proposals.

(9) As soon as reasonably practicable after a decision has been made, the National Assembly must send notice of its decision to the appellant and the relevant billing authority.

BID Revenue Account

14.—(1) Schedule 3 shall have effect with respect to the keeping of the BID Revenue Account.

(2) Where the relevant billing authority has more than one notice under regulation 4(2)(a)(ii) it must ensure that a separate BID Revenue Account is kept for each of the BIDs.

(3) This paragraph applies where BID arrangements come to an end (whether by reason of termination under regulation 18 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 BID levy immediately prior to the end of the BID arrangements (“a previous levypayer”).

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

(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 levypayer (and the amount to be credited or refunded to each previous levypayer must be calculated in proportion to the amount of the BID levy which each previous levypayer was liable to pay for the last chargeable period of the BID arrangements); and

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

Administration of the BID levy etc

15. The relevant billing authority must, by the commencement date, make arrangements for the imposition, administration, collection, recovery and application of the BID levy and Schedule 4 shall have effect with respect to those matters.

Alteration of BID arrangements without an alteration ballot

16.—(1) Subject to paragraphs (2) to (4), 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 —

(a) the geographical area of the BID; or

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

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

(ii) increase the BID levy for any person.

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

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

- (a) the relevant billing authority must ensure that the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are to come into force and must send a notice explaining the reason for and the effect of the alteration to each person liable for the BID levy; and
- (b) sections 44 to 47 of the Act, regulations 14 to 18 and Schedules 3 and 4 shall have effect from the date the BID arrangements (as altered) come into force as if a reference in each of those provisions to “BID arrangements” were a reference to the BID arrangements (as altered).

Alterations of the BID arrangements following a ballot

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

- (a) BID arrangements which do not include a provision allowing for the arrangements to be altered without a ballot;
- (b) the geographical area of the BID; or
- (c) the BID levy in such a way that would —
 - (i) cause any person to be liable to pay the BID levy who was not previously liable to pay; or
 - (ii) increase the BID levy for any person,

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

(2) An alteration of the BID arrangements under this regulation is not to come into force unless the alteration proposals are approved by a ballot of the non-domestic ratepayers who are to be liable for the BID levy under the 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 BID arrangements are altered under this regulation —

- (a) the relevant billing authority must ensure that the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are to come into force; and
- (b) sections 44 to 47 of the Act, regulations 14 to 18 and Schedules 3 and 4 shall have effect from the date the BID arrangements (as altered) come into force as if a reference in each of those provisions to “BID arrangements” were a reference to the BID arrangements (as altered).

Termination of BID arrangements

18.—(1) The relevant billing authority may terminate BID arrangements where —

- (a) 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 —
 - (i) 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
 - (ii) given those persons who are liable for the BID levy an opportunity, at a public meeting, to make representations in relation to the termination of the BID arrangements;
- (b) in the opinion of the authority, the BID body has failed to provide, or to make reasonable progress in the provision of, the work or services to be provided under the BID arrangements; or
- (c) the authority is unable, due to any cause beyond its control, to provide works or services which are necessary for the BID to continue and the authority has —
 - (i) 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 authority considers appropriate; and
 - (ii) where a local authority BID body is 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 authority considers appropriate.

(2) Subject to paragraph (3), the BID body or, where a local authority BID body is responsible for implementing the BID arrangements, the relevant billing authority 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 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.

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

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

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

(6) Where BID arrangements are terminated under this regulation the relevant billing authority must, as soon as is reasonably practicable, give written notice of the termination to each person liable for the BID levy and the notice must include an explanation of whether a repayment under regulation 14(4) is to be made.

Information

19. The relevant billing authority must supply to the ballot holder any information he or she requires for the

purposes of carrying out his or her functions under these Regulations.

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 must be paid by the relevant billing authority.

Electronic communication of requests, applications or notices

21.—(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 on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**10**)

Date

The Presiding Officer of the National Assembly

(**10**) 1998 c.38.

SCHEDULE 1

Regulation 4

CONTENT OF BID PROPOSALS, RENEWAL PROPOSALS OR ALTERATION PROPOSALS

1.—(1) Subject to sub-paragraphs (2) and (3), the matters which must be included in 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 BID body or local authority 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, a partnership or other body);
- (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 (including a map showing that area) in which the proposed BID arrangements are to have effect;
- (d) a statement of whether all non-domestic ratepayers in the geographical area or a specified class of them are to be liable for the BID levy, an explanation of how the amount of the BID levy to be levied is to be calculated and an explanation of whether any of the costs incurred in developing the BID proposals, holding of the ballot or implementing the BID are to be recovered through the BID levy;
- (e) a statement of the specified class of non-domestic ratepayer (if any) for which and the level at which any relief from the BID levy is to apply;
- (f) a statement of whether the BID arrangements may be altered without an alteration ballot and, if so, which aspects of the BID arrangements may be altered in this way;
- (g) a statement of the duration of the BID arrangements; and
- (h) a statement of the commencement date of the BID arrangements.

(2) In relation to sub-paragraph (1)(c), the geographical area in which BID arrangements are to have effect must not include part only of a whole hereditament.

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

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

- (a) a statement of the proposed period (not exceeding 5 years) of the renewed BID arrangements; and
- (b) a summary of the BID arrangements (including the geographical area of the BID, the works or service provided, an explanation of who is liable for the BID levy, the level of the BID levy and how it is calculated).

3.—(1) Subject to sub-paragraph (2), the matters which must be included in alteration proposals are a description of how it is proposed the 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 BID arrangements;
- (b) a summary of the existing baseline services (if any) provided by the relevant billing authority;
- (c) the geographical area (including a map showing that area) in which the proposed BID arrangements are to have effect;
- (d) the non-domestic ratepayers in the geographical area who are to be liable for the BID levy, an explanation of how the amount of the BID levy to be levied is to be calculated and an explanation of whether any of the costs incurred in developing the BID proposals, holding of the ballot or implementing the BID are to be recovered through the BID levy;
- (e) the category of non-domestic ratepayer (if any) for which and the level at which any relief from the BID levy is to apply;
- (f) whether the BID arrangements may be altered without an alteration ballot and, if so, which aspects of the BID arrangements may be altered in this way; and
- (g) a statement of the commencement date of the alterations to the BID arrangements.

(2) In relation to sub-paragraph (1)(c), the geographical area in which BID arrangements are to have effect must not include part only of a whole hereditament.

(3) In relation to sub-paragraph (1)(g), the BID body or local authority BID body, as the case may be, must 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 BID arrangements will come into force and such commencement date must be no later than a year after the date of that notice.

SCHEDULE 2

Regulation 7

RULES FOR BID BALLOTS, RENEWAL BALLOTS AND ALTERATION BALLOTS

PROVISIONS AS TO TIME

Timetable

<i>Proceeding</i>	<i>Time</i>
The billing authority instructs the ballot holder	In accordance with regulation 5
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

RULES FOR BALLOTS

Day of the ballot

- 2.—(1) Subject to sub-paragraph (2), the ballot holder must 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 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), he or she must notify the relevant billing 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 he or she must take reasonable steps to publicise the new day of the ballot.

Ballots—preliminary procedures

3. The ballot holder must, 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 5p.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, his or her proxy a statement which —
 - (i) explains the arrangements for the ballot;
 - (ii) explains that regulation 4(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 National Assembly a copy of the notice referred to in sub-paragraph (a).

Ballots - general

4.—(1) Each ballot must be a postal ballot.

(2) Each person entitled to vote in a BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, shall have one vote in respect of each hereditament occupied or (if unoccupied) owned by him or her in the geographical area of the BID.

(3) In ascertaining the rateable value of a hereditament for the purposes of a 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 or her 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 or her in a particular ballot, the ballot holder must 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 must —

- (a) state the full name and address of the person whom the person entitled to vote (the applicant) wishes to appoint as his or her proxy;
- (b) state the address of the applicant's hereditament;
- (c) be signed by the applicant; and
- (d) contain a statement that he or she 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 must be refused for the purposes of a particular ballot if it is received by the ballot holder after 5p.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, the ballot holder must —

- (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 must notify the applicant in writing of his or her 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 must be disregarded for the purposes of a ballot if it is received by the ballot holder after 5p.m. 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 must —

- (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 or she 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 must maintain and aid in maintaining the secrecy of the voting and must 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 must maintain and aid in maintaining the secrecy of voting and must 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 or her 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 must make such arrangements as he or she 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 must not be less than 1.5 centimetres square.

(4) All of the words on the ballot paper must appear in the same size type.

(5) Each ballot paper for a BID ballot, or a re-ballot in relation to a BID ballot, must include the following wording in Welsh and in English—

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	
-----	--	----	--

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.....(NB where the person entitled to vote is a company, partnership or trustees, 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 5p.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, must include the following wording in Welsh and in English—

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 BID proposals] 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	
-----	--	----	--

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.....(NB where the person entitled to vote is a company, partnership or trustees, 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 5p.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, must include the following wording in Welsh and in English—

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 BID]?

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.....(NB where the person entitled to vote is a company, partnership or trustees, 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 5p.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 or she voted.

Procedure on issue of ballot paper

10.—(1) One ballot paper must be issued in respect of each person entitled to vote in the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, in respect of each hereditament for which he or she 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 on the list prepared under paragraph 3(b);
- (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 must be issued to each person entitled to vote or, if applicable, his or her 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 (“the return envelope”).

(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(11));
- (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, under section 7 of the Postal Services Act 2000.

(5) Postage must be prepaid on envelopes in which the ballot paper is issued and return postage must be prepaid on all return envelopes.

(6) No person other than the ballot holder and his or her 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 his or her ballot paper in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) they 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 must issue another ballot paper, except where received later than 3 working days before the day of the ballot.

(3) The ballot holder must immediately cancel the spoilt ballot paper.

(4) Where a voter applies in person, the ballot holder may hand a replacement ballot paper to them 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 fourth working day before the day of the ballot, they may apply (whether or not in person) to the ballot holder for a replacement ballot paper.

(2) Such an application must include evidence of the voter’s identity.

(3) Where 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;

he or she must issue another ballot paper.

(4) Where a ballot voter applies in person, the ballot holder may hand a replacement ballot paper to them instead of delivering it in accordance with paragraph 10.

Receipt of return ballot papers

13.—(1) A postal ballot paper must 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 must 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 or her 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 must 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 his or her 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 must certify —

- (a) the total number of votes cast in the ballot excluding any votes given on ballot papers rejected under the rule in 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), must —

- (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 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 must retain the ballot papers for six months after the day of the ballot and then, unless otherwise directed by order of the High Court, must cause them to be destroyed.

SCHEDE 3

Regulation 14

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") must carry to the credit of the account amounts equal to the items listed in this Part of this Schedule.

Item 1: BID revenues

Sums paid for the year under sections 43 and 45 of the Act.

Item 2: income from BID services and facilities

Sums received by the authority for the year in respect of services or facilities provided by it (excluding contributions made by it to the BID under section 43(2)(a) of the Act) under the 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”) must carry to the debit of the account amounts equal to the items listed in this Part of this Schedule.

Item 1: BID cost of collection

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

Item 2: BID expenditure

The expenditure of the authority for the year in respect of the BID arrangements (including sums paid to a third party to undertake the works or services under the 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 15

IMPOSITION, ADMINISTRATION, COLLECTION, RECOVERY AND APPLICATION OF THE 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 (3) below or section 233(2) of the 1972 Act 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) Without prejudice to section 233 of the 1972 Act, 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 or her at, the place of business (or, as the case may be, one of those places of business).

(4) Without prejudice to section 233 of the 1972 Act and sub-paragraph (3) above and subject to sub-paragraphs (5) to (8) 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) are to 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 or her 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.

(5) For the purpose of any legal proceedings, a notice given by a means described in paragraph (4) 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 (4)(a); or
- (b) notification of its publication was given in accordance with sub-paragraph (4)(b)(iv).

(6) A person who has notified an address for the purpose of sub-paragraph (4)(a) must, 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.

(7) A person who has notified an address for the purpose of paragraph sub-paragraph (4)(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.

(8) A person who has entered into an agreement with the billing authority under sub-paragraph (4)(b)(i) may, by notice in writing to the billing authority, inform the authority that he or she 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.

The requirement for demand notices

2.—(1) For each chargeable period a relevant billing authority must, in accordance with paragraphs 4 to 6, serve a notice in writing on every person who is liable for the BID levy in relation to the BID arrangements for the period.

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

(3) A demand notice must be served with respect to the amount payable for every hereditament as regards which a person is liable for the 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, must be determined as if separate notices were issued in respect of each hereditament.

Content of demand notices

3.—(1) A demand notice must 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 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 BID levy in respect of the hereditament fell within the description in the BID arrangements of persons who are to be liable for the 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 BID levy the billing authority was due to receive in the previous year;
- (b) the amount spent on the BID arrangements in the previous year;
- (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 BID levy in the financial year.

Invalid notices

4.—(1) Where —

- (a) a demand notice is invalid because it does not comply with paragraph 3;
- (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 3(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 must as soon as practicable after the mistake is discovered issue to the person who is liable for the 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 must 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 for the BID levy specified in the BID arrangements as regards the hereditament concerned later in the relevant period, the first day after that day in respect of which he or she falls within that description.

(2) A demand notice may be served before the beginning of the relevant period on a person with respect to whom on the day it is issued it appears to the relevant billing authority that he or she will fall within the description of person to be liable for the BID levy specified in the 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 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 for the BID levy specified in the 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 must 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 for the BID levy specified in the 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 for the BID levy specified in the BID arrangements in the relevant period as regards the hereditament concerned, a further notice must be served on him or her 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 he or she 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 BID levy specified in the BID arrangements.

(6) If a demand notice is issued after the end of the relevant period, it must 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 must require the estimate of the amount payable to be paid 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.

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

Enforcement

9. Part III of and Schedules 2 to 4 to the 1989 Regulations shall apply to the enforcement of the 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 II of those regulations must 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) must 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) must be read as including a person authorised by a billing authority to exercise any functions relating to the collection and enforcement of the BID levy;
- (e) the reference in regulation 22 to a sum which has become payable under Part II of those regulations to a person other than a billing authority must 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) must be read as if the words “or the contents of any BID arrangements made under Part 4 of the Local Government Act 2003” 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) must 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) must be read as if for the word “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 their death they were (or are alleged to have been) liable for a BID levy.

(2) Where —

- (a) before the deceased’s death a sum has become payable by them under this Schedule or by way of relevant costs in respect of a BID levy but has not been paid; or
- (b) after the deceased’s death a sum would, but for their death (and whether or not on the service of a notice) become payable by them under this Schedule in respect of a BID levy,

their executor or administrator shall, subject to subparagraph (3) and to the extent that it is not in excess of the deceased’s liability (including relevant costs payable by them) in respect of the 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 them of a notice requiring payment of the sum.

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

(5) Costs are relevant costs for the purposes of subparagraphs (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 connected with distress which may be recovered pursuant to regulation 14(2)(b) of the 1989 Regulations.

(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 their 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 their liability under this paragraph in the administration of the deceased's estate, the executor or administrator may institute, continue or withdraw proceedings.

Application of 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(**12**) were contained in this Schedule.

Joint occupiers and 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 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 BID levy, that person shall be liable to pay the amount payable by way of the 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 BID levy, those persons shall be jointly and severally liable to pay the amount that would have been payable by way

(**12**) 1947 c. 44.

of the 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 —

- (a) severally to each or any of the persons who is liable for the 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 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 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 must 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 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 or she is solely liable unless and until his or her 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 BID levy requires that the ratepayer 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) Paragraphs (2)(b) and (8) are without prejudice to any right or duty in law or equity (whether under the terms of any trusts on which the hereditament concerned is held or otherwise) of an owner or occupier 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 owners or occupiers or any beneficiaries interested in the hereditament; but insofar as in any particular case no such right or duty exists (and the owner or occupier is not in consequence of any such provision in law or equity obliged to bear the burden of the payment or entitled to receive the benefit of the payment or contribution), such payments shall be due between the owners or occupiers (as the case may be) 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.

Joint owners and occupiers: enforcement

13.—(1) Part III of and Schedules 2 to 4 to the 1989 Regulations shall have effect, with the following modifications, for the recovery of a sum for which persons are liable under section 46 of the Act as applied by paragraph 12.

(2) A reminder notice must 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 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) distress may be made against one or more of them.

(6) Where distress has been made 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 distress has been made 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 distress, 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 distress, 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 or her in respect of it; and
- (b) subject to sub-paragraph (10), steps by way of distress may not be taken against a person in respect of an amount whilst steps by way of distress 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 making distress against one of them goods jointly owned by him or her and another of them are found, sub-paragraph (9)(b) does not preclude distress being levied against those goods with respect to that amount; but in any subsequent proceedings under regulation 16 of the 1989 Regulations, charges arising under Schedule 3 to the 1989 Regulations from such a distress must be treated as charges relating to the person against whose goods the levy was intended to be made 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 as regards one of them under head B of the Table in paragraph 1 of Schedule 3 to the 1989 Regulations in respect of that amount,

no further charge may be aggregated for the purposes of regulation 14(2) of the 1989 Regulations under that head or head A of that Table in consequence of any subsequent levy or attempted levy against any of them in respect of that amount; and a charge under head A(i) or charges under that head and head A(ii) against one of them must be treated for those purposes as a charge or, as the case may be, charges under that head 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) must 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 must (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 or her 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 distress being

levied against partnership property with respect to that amount; and in any subsequent proceedings under regulation 16 of the 1989 Regulations, the partners must be treated as jointly and severally liable for charges arising under Schedule 3 to those regulations from such a distress.

(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(**13**) were —

- (a) in a case where article 7 of the Insolvent Partnerships Order 1994(**14**) applies, a reference to section 221(5)(c) as applied by that article; or
- (b) in a case where article 8 of that Order applies, a reference to section 221(5) as substituted by paragraph (1)(c) of that article.

(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.

(**13**) 1986 c.45.

(**14**) S.I. 1994/2421; relevant amendments are by S.I. 2002/1308.