

(5) In subsection (4), “A” and “B” have the same meanings as in subsections (7) and (8) of section 40 or, in the case referred to in subsection (9) of that section, as in regulations under subsection (9).

Commencement

Pt 9 s. 41(1)-(5): February 6, 2007 for the purposes of enabling regulations to be made; April 1, 2007 otherwise (SSI 2007/49 art. 2, Sch. 1 para. 1; SSI 2007/130 art. 2(2), Sch. 1 para. 1)

Extent

Pt 9 s. 41(1)-(5): Scotland

Law In Force

42 Power of veto

- (1) This section applies where a ballot is to be held for the purposes of section 38(1).
- (2) By such date prior to the date of the ballot as may be prescribed, the local authority to which the BID proposals relate are to give to—
- (a) the persons who have drawn up the proposals, and
 - (b) the Scottish Ministers,
- notice that the authority are or are not vetoing the proposals.
- (3) The authority may veto proposals only in the circumstances specified in subsection (4) and are not entitled to do so after the date prescribed for the purposes of subsection (2).
- (4) Those circumstances are that the local authority consider that the BID proposals are likely—
- (a) to conflict with any structure plan, local plan, strategic development plan or local development plan which has been approved or adopted under the principal Act and which applies to the proposed business improvement district or any part of it,
 - (b) 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 are under a statutory duty to prepare such a document), or
 - (c) to lead to a significantly disproportionate financial burden being imposed on—
 - (i) any person entitled to vote in the ballot on the proposals, or
 - (ii) any class of such persons,
 as compared to other such persons or classes.
- (5) The Scottish Ministers may by regulations made by statutory instrument amend subsection (4) so as to change or add to the circumstances in which a local authority may veto proposals.
- (6) Where the local authority have vetoed the BID proposals, no ballot shall be held.
- (7) In deciding whether to exercise the veto, the local authority are to have regard to such matters as may be prescribed.
- (8) A notice under subsection (2) vetoing the BID proposals must—
- (a) set out the reasons for the exercise of the veto, and
 - (b) give details of the right of appeal under section 43.
- (9) Any other notice under subsection (2) must set out the reasons for not exercising the veto.

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.

(5) The billing body or the local authority may charge a fee 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 fee charged under paragraph (5) is reasonable having regard to the costs incurred or likely to be incurred by the billing body or the local authority (as the case may be) in dealing with requests and supplying information under this regulation.

Commencement

reg. 13(1)-(6): April 1, 2007

Extent

reg. 13(1)-(6): Scotland

Law In Force

14.— Veto of BID proposals

(1) For the purposes of section 42(2) of the 2006 Act, the prescribed period is 70 days prior to the day of the ballot.

(2) For the purposes of section 42(4) of the 2006 Act, the prescribed matters to which the local authority shall 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, as the case may be) for the BID proposals, where this information is available;
- (b) the nature and extent of the conflicts mentioned in section 42(4) of the 2006 Act;
- (c) in relation to section 42(4)(c) of the 2006 Act, the structure of the proposed BID levy and how the financial burden of the business improvement district is to be distributed amongst ratepayers and the other eligible persons in the geographical area of the business improvement district;
- (d) in relation to section 42(4)(c) of the 2006 Act, how the financial burden of the business improvement district may have been disproportionately distributed among ratepayers and the other eligible persons as a result of the selection of the geographic area or areas of the business improvement district;
- (e) the extent to which the BID proposer discussed the BID proposals with the authority before submitting the BID proposals to the authority under regulation 5; and
- (f) the cost incurred by any person in developing the BID proposals and canvassing in relation to the BID proposals.

Commencement

reg. 14(1)-(2)(f): April 1, 2007

Extent

reg. 14(1)-(2)(f): Scotland
