

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4777 GIBRALTAR Thursday 5th November 2020

B. 25/20

BUSINESS IMPROVEMENT DISTRICTS ACT 2020

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BILL

FOR

AN ACT to make provision for business improvement district arrangements, including provision regarding the financing, duration and termination of such arrangements, the duty to comply with such arrangements and other connected purposes.

ENACTED by the Legislature of Gibraltar.

PRELIMINARY

Title and commencement.

1. This Act may be cited as the Business Improvement Districts Act 2020 and shall come into operation on such day as the Minister shall appoint by notice in the Gazette and different days may be appointed for different provisions and for different purposes.

Interpretation.

2. In this Act, unless the context shall otherwise require—

“BID arrangements” has the meaning given to it in section 3(1);

“BID levy” has the meaning given to it in section 3(2);

“BID Proposals” has the meaning given to it in section 11(1);

“billing authority” has the meaning given to it in section 4;

“business improvement district” means any area in Gibraltar where three or more non-domestic hereditaments are situated;

“chargeable period” has the meaning given to it in section 7;

“district” means a business improvement district;

“hereditament” means anything which is or is treated as being a hereditament for the purposes of the Public Health Act;

“Minister” means the Minister for Business;

“non-domestic” has the meaning given to it in section 270 of the Public Health Act;

“non-domestic ratepayer”, means a ratepayer who pays a rate in respect of a non-domestic hereditament;

“OFT” means the body corporate established pursuant to section 3(1) of the Fair Trading Act 2015;

“prescribed” means prescribed by regulations made by the Minister, and “prescribe” shall be construed accordingly;

“rate” has the meaning given to it in section 270 of the Public Health Act;

“ratepayer” has the meaning given to it in section 270 of the Public Health Act;

“Register of Tenancies of Business Premises” means the register established pursuant to section 39(1) of the Landlord and Tenant Act 1983; and

“superficial area”, in relation to a hereditament, means the superficial area shown in the Register of Tenancies of Business Premises in respect of that hereditament.

(2) Other expressions which are used in this Act and in Part XI of the Public Health Act have the same meaning in this Act as they have in Part XI of the Public Health Act.

PART I BID ARRANGEMENTS

Arrangements with respect to business improvement districts.

3.(1) The billing authority may in accordance with this Part make arrangements (“BID arrangements”) with respect to a business improvement district.

(2) The purpose of BID arrangements is to enable—

- (a) the projects specified in the arrangements to be carried out for the benefit of the business improvement district or those who live, work or carry on any activity in the district, and
- (b) those projects to be financed (in whole or in part) by a levy (“BID levy”) imposed on the non-domestic ratepayers, or a class of such ratepayers, in the district.

Billing authority.

4.(1) The Minister may appoint, either by Regulations or by notice in the Gazette, any person or body to be the billing authority for the purposes of this Act.

(2) In the absence of any appointment under subsection (1), the Accountant General shall be the billing authority.

(3) Where the Accountant General is the billing authority, the power to depute conferred by s.44 of the Interpretation and General Clauses Act is extended to the Accountant General in relation to the exercise of any power and the performance of any duty under this Act.

Additional contributions and action.

5.(1) The persons specified in subsection (2) may make financial contributions or take action for the purpose of enabling the projects specified in BID arrangements to be carried out.

(2) Those persons are—

(a) the billing authority,

(b) any other person authorised or required to do so in accordance with the arrangements.

Duty to comply with arrangements.

6. Where BID arrangements are in force, the billing authority must comply with them.

**PART II
BID LEVY**

BID levy.

7.(1) BID levy is to be imposed in a business improvement district only for periods (“chargeable periods”) falling within the period in which BID arrangements are in force in respect of the district.

(2) The length of any chargeable period, and the day on which it begins, are to be such as may be specified in the BID arrangements.

(3) The amount of BID levy for any chargeable period—

(a) is to be calculated in such manner as may be provided in the BID arrangements, and

(b) may be different for different cases.

Liability for BID levy.

8.(1) BID arrangements must specify the description of non-domestic ratepayers in the business improvement district who are to be liable for BID levy for a chargeable period.

(2) A person is to be liable for BID levy for a chargeable period if he falls within that description at any time within the period.

(3) The amount of a person's liability for BID levy for any chargeable period is to be determined in accordance with the BID arrangements.

(4) Any amount of BID levy for which a person is liable is to be paid to the billing authority.

**PART III
ADMINISTRATION ETC.**

Bid Revenue Account.

9.(1) The billing authority must, in accordance with proper practices, keep an account, to be called the BID Revenue Account.

(2) Amounts paid to the authority by way of BID levy must be credited to the BID Revenue Account.

(3) Amounts are to be debited to the BID Revenue Account only in accordance with BID arrangements.

(4) The Minister may by regulations make further provision in relation to the BID Revenue Account.

Administration of BID levy etc.

10. The Minister may by regulations make provision with respect to the imposition, administration, collection, recovery and application of BID levy.

**PART IV
PROCEDURE**

Bid Proposals.

11.(1) BID arrangements are not to come into force unless proposals for the arrangements ("BID proposals") are approved by a ballot of the non-domestic ratepayers in the proposed business improvement district who are to be liable for the proposed BID levy.

- (2) The Minister may by regulations make provision—
- (a) as to the persons who may draw up BID proposals,
 - (b) as to the procedures to be followed in connection with the drawing up of BID proposals,
 - (c) as to the matters to be included in BID proposals, and
 - (d) as to the date which may be provided under BID proposals for the coming into force of BID arrangements which give effect to the proposals.

Approval in ballot.

12.(1) BID proposals are not to be regarded as approved by a ballot held for the purposes of section 11(1) unless two conditions are satisfied.

(2) The first condition is that a majority of the persons voting in the ballot have voted in favour of the BID proposals.

(3) The second condition is that A exceeds B.

(4) A is the aggregate of the superficial area of each hereditament in respect of which a person voting in the ballot has voted in favour of the BID proposals.

(5) B is the aggregate of the superficial area of each hereditament in respect of which a person voting in the ballot has voted against the BID proposals.

Power of veto.

13.(1) This section applies where BID proposals are approved by a ballot held for the purposes of section 11(1).

(2) The Minister may, in prescribed circumstances, veto the proposals within such period from the date of the ballot as may be prescribed.

(3) In deciding whether to exercise the veto, the Minister is to have regard to such matters as may be prescribed.

(4) If the Minister vetoes BID proposals, it must give notice of the exercise of the veto to the persons entitled to vote in the ballot.

(5) The notice—

(a) must set out the reasons for the exercise of the veto, and

(b) must give details of the right of appeal under section 14.

(6) A copy of the notice must be sent to the OFT.

Appeal against veto.

14.(1) Where the Minister vetoes BID proposals, any person who was entitled to vote in the ballot may appeal to the OFT.

(2) The Minister may by regulations make provision in relation to appeals under this section, including provision—

- (a) as to the time by which an appeal is to be made,
- (b) as to the manner in which an appeal is to be made,
- (c) as to the procedure to be followed in connection with an appeal, and
- (d) as to the matters to be taken into account in deciding whether to allow an appeal.

Commencement of BID arrangements.

15.(1) This section applies where BID proposals are approved by a ballot held for the purposes of section 11(1).

(2) The billing authority must ensure that BID arrangements which give effect to the proposals are made by the time the arrangements are to come into force in accordance with this section.

(3) Subject to subsection (4), the BID arrangements are to come into force on such day as may be provided under the BID proposals.

(4) If the BID proposals are vetoed under section 13, BID arrangements which give effect to the proposals are not to come into force unless the OFT allows an appeal against the veto under section 14.

(5) Where the OFT allows such an appeal, BID arrangements which give effect to the proposals are to come into force on such day as the OFT may determine.

(6) The day determined under subsection (5) must not be earlier than the day mentioned in subsection (3).

**PART V
MISCELLANEOUS**

Duration of BID arrangements etc.

16.(1) BID arrangements are to have effect for such period (not exceeding 5 years) as may be specified in the arrangements.

(2) BID arrangements may be renewed for one or more periods each of which must not exceed 5 years, but only if the renewal of the arrangements on that or each occasion is approved by a ballot of the non-domestic ratepayers in the business improvement district who are liable for the BID levy.

(3) The renewal of BID arrangements is not to be regarded as approved by a ballot held for the purposes of subsection (2) unless the two conditions in section 12 which apply to the approval of BID proposals are satisfied in relation to the renewal of the arrangements.

(4) The Minister may by regulations make provision—

(a) as to the alteration of BID arrangements, and

(b) as to the termination of BID arrangements.

(5) The provisions which may be made by virtue of subsection (4)(a) or (b) includes provision preventing or restricting the alteration or early termination of BID arrangements.

(6) Nothing in subsection (5) is to be taken as limiting the power conferred by subsection (4).

Regulations about ballots.

17.(1) The Minister may by regulations make provision in relation to ballots.

(2) The provision which may be made by regulations under this section includes provision—

(a) as to the timing of ballots;

(b) as to the non-domestic ratepayers entitled to vote in a ballot;

(c) as to the question to be asked in a ballot;

(d) as to the form that ballots may take;

(e) as to the persons who are to hold ballots;

(f) as to the conduct of ballots;

- (g) conferring power on the Minister to declare ballots void in cases of material irregularity;
 - (h) for or in connection with enabling the billing authority to recover the costs of a ballot from such persons and in such circumstances as may be prescribed.
- (3) Nothing in subsection (2) is to be taken as limiting the power conferred by subsection (1).
- (4) In this section “ballot” means a ballot held for the purposes of section 11(1) or 16(2).

Power to make further provision.

18.(1) The Minister may by regulations make such supplementary, incidental, consequential or transitional provision as he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision made by or under this Act.

(2) The provision which may be made under subsection (1) includes provision amending any other Act (whenever passed or made).

Crown application.

19. This Act binds the Crown.

EXPLANATORY MEMORANDUM

This Act provide a statutory framework within which arrangements for the improvement of business districts can be proposed, approved, funded and implemented, and provides for the further regulation of such arrangements.