POLICY NOTE

THE UEFA EUROPEAN CHAMPIONSHIP (SCOTLAND) ACT 2020 (TICKET TOUTING OFFENCE) (EXCEPTIONS FOR USE OF INTERNET ETC.) (SCOTLAND) REGULATIONS 2020

SSI 2020/XXX

The above instrument was made in exercise of the powers conferred by section 5 of the UEFA European Championship (Scotland) Act 2020 and section 2(2) of the European Communities Act 1972. The instrument is subject to affirmative procedure.

Purpose of the instrument
The purpose of these regulations is to help ensure successful delivery of the Union of European Football Associations (UEFA) European Football Championship (the Championship) which will be hosted, in part, in Glasgow in summer 2021.

The UEFA European Championship (Scotland) Act 2020 (2020 Act)[1] provides the overarching framework governing the Championship, including making it a criminal offence to tout a Championship ticket. These regulations specify circumstances in which making facilities available in connection with electronic communications or the storage of data is, or is not, to be capable of constituting a touting offence.

Policy Objectives

1. To commemorate the 60th Anniversary of the European Football Championship in 2020, the Union of European Football Associations (UEFA) is providing a "EURO for Europe." Twelve cities will host matches, including Glasgow. Due to the Coronavirus pandemic, the Championship has been postponed from summer 2020 until summer 2021.

Measures to prevent the touting of Championship tickets are provided for in the 2020 Act. In particular, section 2 of the 2020 Act creates an offence ("the touting offence") to sell, offer to sell, expose for sale, advertise, make available or give away a Championship ticket, for an amount exceeding the ticket's face value or with a view to making a profit. The touting offence applies to acts done in or outwith Scotland. The 2020 Act specifies certain exceptions to the touting offence, for auctions of tickets where the proceeds are given to a charity (section 3), as amended by the Coronavirus (Scotland) (No.2) Bill[2], certain advertisers (section 4) and a partial exemption for UEFA (section 2(4)).

The policy objective of these regulations is to help ensure successful delivery of the Championship by meeting the commercial rights protection required by UEFA in relation to prohibiting ticket touting. This will have consequential benefits in terms of supporting fair access to tickets for the public. The regulations will help to ensure that the ticket touting offence is proportionate in its impact by specifying circumstances involving mere conduit, caching and hosting of information society services which are not capable of constituting the touting offence. The regulations set out preconditions in relation to taking action on the touting offence against

1 https://www.legislation.gov.uk/asp/2020/1/contents/enacted
2 https://beta.parliament.scot/bills/coronavirus-scotland-no2-bill

providers established in European Economic Area states. The regulations maintain the policy that the Scottish Ministers had indicated would be in place had the United Kingdom not exited the European Union on 31 January 2020.

Consultation

As the requirement for legislation was confirmed at a late stage there has not been sufficient time for a public consultation. The Scottish Government has used the Glasgow Commonwealth Games Act 2008 (Ticket Touting Offence) (Exceptions for Use of Internet etc.) (Scotland) Regulations 2012 (2012 Regulations) as a basis for these regulations. The 2012 Regulations were subject to a 12 week public consultation.

In order to seek views on the policy in the regulations for the Championship, illustrative regulations were shared with Parliament on 17 October 2019[3]. The illustrative regulations were also shared with Local Organising Committee[4] partners and a number of other stakeholders including the UEFA, Glasgow Life, the Scottish Police Federation, and football supporter's organisations.

No comments were received in relation to the content of these regulations, although there was broad support for the creation of a ticket touting offence during the Parliamentary consideration of the 2020 Act.

Impact Assessments

An Equality Impact Assessment (EQIA) has been completed and was published by the Scottish Government in September 2019[5]. No changes to this are considered to be required in light of these regulations.

A Pre Screening Strategic Environmental Assessment (SEA) was carried out for the Bill and regulations. There are no complex, widespread, long lasting or serious environmental effects expected as a result of the introduction of the legislation. A separate Sustainability Strategy has been developed for the wider event and will be implemented by Glasgow Life and partners.

A Children's Rights and Wellbeing Impact Assessment Screening was carried out for the 2020 Act and regulations. There are considered to be no direct impacts on children and young people and any indirect impacts are considered to be positive overall but minor in their impact. No issues regarding children and young people have been raised by partners or those we have engaged with during the development process for the regulations.

The Scottish Government is satisfied that the 2020 Act and regulations will have no differential effect on island communities. The Scottish Government is also satisfied that a Fairer Scotland duty assessment is not required for these regulations. A Data Protection Impact Assessment is not required as these regulations will not result in the collection of personal data.

3 https://www.parliament.scot/S5_European/Inquiries/CTEEA_2019.10.17_MinEuropetoConvenerUEFA.pdf

4 Section 33(4) of the 2020 Act provides that members of the LOC are: Glasgow City Council, Hampden Park Limited, the Police Service of Scotland, the Scottish Football Association, the Scottish Ministers, VisitScotland, and where an organisation, company or body is no longer able to participate in the committee, such replacement organisation, company or body as the remaining members of the committee consider appropriate.

5 https://www.gov.scot/publications/uefa-european-championship-scotland-bill-results-eqia/

Financial Effects

A final Business and Regulatory Impact Assessment (BRIA) has been completed[6] and this takes into account the policy included in these regulations.

These regulations are not considered to have any significant financial effect on the Scottish Government, local government or on business. UEFA is the only authorised seller of tickets in the primary and secondary market and so there is no legitimate market for other providers in reselling Championship tickets. However, in creating exceptions to the ticket touting offence, the regulations will ensure that businesses that merely conduit, cache and host information society services are not captured by the offence, helping to ensure that it is proportionate in its impact.

Further details on the expected financial effects associated with implementing the 2020 Act as a whole are set out in the Financial Memorandum.[7]

Scottish Government
Directorate for Culture, Tourism and Major Events
1 June, 2020

[6] https://www.gov.scot/publications/uefa-european-championship-bill-bria/pages/4/
[7] https://www.parliament.scot/S5_Bills/UEFA%20European%20Championship%20Bill/SPBill54FMS052019.pdf