POLICY NOTE

THE UEFA EUROPEAN CHAMPIONSHIP (SCOTLAND) ACT 2020 (COMPENSATION FOR ENFORCEMENT ACTION) (SCOTLAND) REGULATIONS 2020

SSI 2020/79

The above instrument was made in exercise of the powers conferred by section 26(3) of the UEFA European Championship (Scotland) Act 2020. The instrument is subject to negative 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 2020.

The UEFA European Championship (Scotland) Act 2020 (2020 Act)[1] provides the overarching framework governing the Championship, including in relation to compensation for enforcement action. These regulations make provision about claiming compensation (from either Glasgow City Council or the Scottish Police Authority), determining the compensation due and confer on the sheriff jurisdiction for determining disputed compensation. This will ensure that there is a clear process in place for people who wish to apply for compensation as a result of damage caused by enforcement action, provided that the person has not committed a championship offence.

Policy Objectives

To commemorate the 60th Anniversary of the Championship in 2020, UEFA is providing a "EURO for Europe." Twelve cities will host matches, including Glasgow.

The main policy objective of the regulations is to ensure that there is a clear process in place to allow for applications for compensation to be made where damage is caused by enforcement action, provided that the person has not committed a championship offence.

Further detail on policy in regulations

The 2020 Act empowers an enforcement officer or a police constable to take reasonable steps to prevent or end a Championship offence, for example ticket touting or street trading. These steps may include entering and searching property and using reasonable force when taking such steps, subject to the safeguards set out in the 2020 Act. While an enforcement officer or police constable will carry out their role in a way so as to minimise any damage, it is possible that damage to property may occur in the course of carrying out enforcement action. If the property belongs to someone who has not committed the offence that the enforcement office was seeking to end or prevent, section 26 of the Act allows that person to seek compensation.

1 https://www.legislation.gov.uk/asp/2020/1/contents/enacted

If the damage is caused by an enforcement officer, or a constable accompanying an enforcement officer, then compensation can be claimed from Glasgow City Council (GCC). If the damage is caused by a constable not accompanying an enforcement officer then compensation can be claimed from the Scottish Police Authority (SPA).

Section 26 of the 2020 Act allows Scottish Ministers to make regulations which set out the process for claiming compensation; determining the amount due; and conferring jurisdiction for determining compensation where there is a dispute.

The regulations set out the process for claiming compensation. This includes the timescales for each party at each stage, including:

- The person claiming the compensation should send a notice, in writing, of their claim to the relevant authority (GCC or the SPA) within 30 days of the date on which the damage occurred, unless there has been a delay of 14 days or more between the damage occurring and the person being notified (for example where there is a delay in a tenant informing a local authority landlord), in which case the notice must be sent within 3 months;
- The relevant authority must determine within 14 days of the claim notice whether it has enough information and evidence to make a decision about the claim, and send a written notice to the person claiming if it does not;
- Once the relevant authority has sufficient evidence to make a decision, they have 28 days to decide whether the claim is valid under the 2020 Act and whether the person claiming is entitled to the amount of compensation they have claimed. The authority must then write to the person with their decision;
- The person claiming can request the relevant authority reviews the decision, and should make that request within 14 days (unless a longer timescale has been agreed with the authority in writing) and the authority should undertake the review and make a decision within 14 days of receiving the review request; and
- If the claimant still does not agree with the decision of the authority, they can make an appeal to the sheriff within 21 days of receiving the decision from the review.

The regulations set out the information that should be provided when making a claim, including:

- The date the damage occurred;
- The amount of compensation claimed and the basis of the calculation of the amount claimed; and
- A description of the damage, including photographs, receipts or other evidence.

The regulations set out that the amount of compensation that can be claimed is the cost of repairing the damage to its previous condition, or if it not possible to repair, the cost of replacing the item(s). Any further loss which was a direct result of the damage to property may also be claimed.

Consultation

As the requirement for legislation arose reasonably recently there has not been sufficient time for a formal public consultation. The Scottish Government has used the Glasgow Commonwealth Games (Compensation for Enforcement Action) (Scotland) Regulations

2013[2] (2013 Regulations) as a basis for these regulations. The 2013 Regulations were subject to a public consultation.

In order to seek views on the policy in these regulations, illustrative regulations were shared with Parliament on 17 October 2019. The illustrative regulations were also shared with Local Organising Committee partners[3], the SPA, the Scottish Courts and Tribunal Service, UEFA and a number of other key stakeholders including the Scottish Police Federation, and football supporters' organisations. No comments have been received as a result of this engagement.

Impact Assessments

An Equality Impact Assessment (EQIA) was published by the Scottish Government in September 2019.[4] 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 2020 Act and regulations. There are no complex, widespread, long lasting or serious environmental effects expected as a result of the introduction of the legislation.

A Children's Rights and Wellbeing Impact Assessment (CRWIA) Screening was carried out for the 2020 Act and regulations. The legislation does not require a CRWIA as 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.

A Data Protection Impact Assessment (DPIA) has been prepared given that the regulations contain provisions that will result in the collection and sharing of a small amount of personal data by GCC,the SPA and Police Scotland.

The Scottish Government is satisfied that these 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 this policy.

Financial Effects

A final Business and Regulatory Impact Assessment (BRIA) has been published for the 2020 Act and the policy in these regulations.[5]

It is expected that the number of compensation applications will be very low as enforcement officers and police officers will carry out their role in such a way so as to minimise damage and compensation is not payable where a championship offence has been committed.

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2 http://www.legislation.gov.uk/ssi/2013/160/made

3 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.

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

5 https://www.gov.scot/publications/uefa-european-championship-bill-bria/pages/4/

Any compensation would be payable by GCC or the SPA, depending on the circumstances, and there may also be some minor costs to the Scottish Courts and Tribunal Service if a person does not agree with the decision of the relevant authority and makes an appeal to the sheriff. Without the regulations, the compensation would still be liable to be paid (as set out in section 26 of the 2020 Act) but there would be no clear process in place to be followed, which would be expected to make it more difficult for businesses or members of the public to apply for compensation. The financial impact of the regulations themselves is therefore considered to be minimal. Further details on the expected financial effects of implementing the 2020 Act are set out in the Financial Memorandum[6] for the 2020 Act.

Scottish Government
Culture, Tourism and Major Events Directorate

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6 https://www.parliament.scot/S5_Bills/UEFA%20European%20Championship%20Bill/SPBill54FMS052019.pdf