POLICY NOTE

THE UEFA EUROPEAN CHAMPIONSHIP (TRADING AND ADVERTISING) (SCOTLAND) REGULATIONS 2020

SSI 2020/443

The above instrument was made in exercise of the powers conferred by sections 1(1), 6(3), 7(3), 12(2) and 13(3) of the UEFA European Championship (Scotland) Act 2020 and all other powers enabling them to do so. 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 regulations do this by enabling the commitments required by UEFA in relation to protection of commercial rights for event sponsors during the period of the event to be met.

The UEFA European Championship (Scotland) Act 2020 (2020 Act)[1] provides the overarching framework governing the Championship and lays the foundations for the control of advertising and trading during the Championship period. The regulations set out what trading consists of and prescribe the circumstances for which exceptions to the trading and advertising offences will apply. They also include maps of the three event zones where the restrictions will apply and when each event zone will be in operation.

Policy Objectives

To commemorate the 60th Anniversary of the Championship, 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 to summer 2021.

The main policy objective of the regulations is to help ensure successful delivery of the Championship by meeting the commercial rights protection required by UEFA. In doing so, the Scottish Ministers are seeking to strike an appropriate balance between allowing normal business activity to continue as far as possible while protecting the rights of UEFA and event sponsors. It is important that organisations that have paid for association rights retain the exclusive right to associate their brands with the Championship. The sale of sponsorship rights provides a significant revenue stream for events which might otherwise have to rely more heavily on public subsidy. The regulations will also help to ensure the safety and free flow of spectators by controlling street trading and preventing ambush marketing.

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

Successful delivery of the event will result in economic, cultural and social benefits for Glasgow and Scotland more generally.

Consultation

Section 33(1) of the 2020 Act requires that before making the first trading regulations or the first advertising regulations, the Scottish Ministers must consult the Local Organising Committee (LOC)[2] and any other persons whom the Scottish Ministers consider appropriate. Section 33(2) of the 2020 Act requires that when making the trading regulations or the advertising regulations, the Scottish Ministers must have regard to any request or guidance from UEFA, and, where relevant, the impact of the regulations on the effective operation of the Championship.

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 (Trading and Advertising) (Scotland) Regulations 2013 (2013 Regulations) as a basis for these regulations. The 2013 Regulations were subject to a 12 week public consultation.

In order to seek views on the policy in these regulations, illustrative trading and advertising regulations were shared with Parliament[3] on 17 October 2019. The illustrative regulations were also shared with LOC partners, UEFA and a number of other key stakeholders including Glasgow Life, the Advertising Association, the Scottish Police Federation, football supporter's organisations, and Mount Florida Community Council.

The Scottish Government and Glasgow City Council also arranged two informal drop in sessions in August 2019. Local businesses, street traders and media owners that could potentially be affected by the introduction of the 2020 Act and associated regulations were invited. Other organisations such as the Federation of Small Businesses, Glasgow Chamber of Commerce, the Scottish Retail Consortium, and Greater Glasgow Hoteliers Association were also invited.

The meetings were intended to provide the businesses with details about the proposed legislation and hear the views of those who could be affected so that this could help to inform the development of the legislation. Telephone calls took place with street traders and other businesses that wanted to understand the proposals but who could not attend in person.

Gathering of views on the regulations was carried out prior to the coronavirus pandemic. There have been no substantive changes to the policy contained in the regulations as a result of the postponement of the Championship to 2021. Delivery partners are working on a range of options to deliver a covid-safe Championship in 2021.

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2 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.

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

Further detail on certain policy in regulations

The regulations set out the details of what constitutes trading at regulation 4. The regulations also provide for a number of exceptions to the advertising and trading offences.

The impact of the restrictions on businesses is considered proportionate given the expected wider economic benefits of the event and steps that have been taken to minimise the impact on local businesses, for example through limiting the number of event zones to three, minimising the size of the zones, and creating exceptions to the advertising and trading restrictions. An exception to the advertising offence which was not included in the illustrative regulations is at 12(1)(e), an advertisement in existence before the coming into force of these regulations that remains in existence, and is displayed by or on behalf of an advertiser in relation to a good or service other than a good or service falling within one or more of the Euro 2020 Product Categories (included as Schedule 4), may remain in place. This exception is expected to reduce the potential impact of the restrictions by allowing more existing advertising to remain in place during the Championship.

During the Parliamentary process for the 2020 Act, the Scottish Government indicated that busking would be permitted in the event zones. This was in response to feedback from Culture, Tourism, Europe and External Affairs Committee on this matter. Busking, which the regulations define as a performance of live music in a street where the public are invited to give money to the performers, will be permitted. This is included at regulation 6(1)(m).

The Policy Memorandum[4] for the 2020 Act sets out that although charity collection is a trading activity which is to be restricted, it is expected that certain charity collectors will be permitted to collect in the events zones in a controlled way to manage numbers. The regulations include provision for this at 6(1)(p). This makes use of the existing process used by Glasgow City Council under section 119 of the Civic Government (Scotland) Act 1982 (the 1982 Act)[5] to regulate charity collections. A charity collection in an event zone will be permitted where a permission has been granted by Glasgow City Council under section 119 of the 1982 Act for an area in an event zone.

The advertising and trading offences are likely to be of a commercial nature. The regulations contain exceptions to the advertising offence to reduce the impact on members of the public, specifically regulation 9, which provides an exception for demonstrations, and regulation 10, which provides an exception for individuals wearing advertising attire, displaying advertisements on their body or carrying personal property.

Maps and dates of operation of event zones

4 https://www.parliament.scot/S5_Bills/UEFA%20European%20Championship%20Bill/SPBill54PMS052019.pdf
5 http://www.legislation.gov.uk/ukpga/1982/45/section/119

The maps and period of operation of the Hampden Park event zone and the George Square event zone are consistent with the illustrative regulations. The Hampden Park zone will be in operation from 31 May 2021 to 29 June 2021 and the George Square zone from 9 June 2021 to 11 July 2021. The dates of operation of the Merchant City event zone were not included in the illustrative regulations. In light of discussions with Glasgow City Council, Glasgow Life and UEFA, and taking into account the potential impact on local businesses, the regulations provide that this zone will be in operation for eight days during the Championship period (13, 14, 17, 18, 21, 22, 28 and 29 June 2021). This includes the four Glasgow match days and the day before each of these. This is considered to be proportionate as the Merchant City event zone is designed to provide extra capacity for football fans in addition to the George Square event zone on busier match days during the Championship. Some minor changes have also been made to the extent of the Merchant City event zone, compared to the illustrative regulations.

Impact Assessments

An Equality Impact Assessment (EQIA) has been completed for the 2020 Act and regulations and was published by the Scottish Government in September 2019[6]. 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 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 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 this policy. These regulations will not result in the collection of personal data.

Financial Effects

A final Business and Regulatory Impact Assessment (BRIA) has been completed and this takes into account the detailed policy included in these regulations. The regulations aim to ensure the right balance between minimising any negative impacts on local businesses and allowing them to take advantage of the economic opportunity the Championship represents, while protecting rights of event sponsors and UEFA.

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

The financial impact of the regulations is considered to be minor, especially in relation to the economic opportunity provided by co-hosting the Championship. The regulations seek to secure a significant positive economic opportunity for Scotland, and Glasgow in particular, by meeting the requirements to allow the UEFA European Championship to be co-hosted in Glasgow.

The regulations will be enforced by enforcement officers and Police Scotland. As a result there will be some costs to Glasgow City Council and Police Scotland. Guidance on the street trading and advertising restrictions, including the exceptions to these as set out in the regulations, will be provided by Glasgow City Council. There are expected to be some minor costs in development, publication, distribution and awareness raising related to this guidance.

Further details on the expected financial effects of implementing the 2020 Act are set out in the Financial Memorandum[7] for the 2020 Act.

Scottish Government

Directorate for Culture, Tourism and Major Events

October 2020

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