

UEFA European Championship (Scotland) Bill

Delegated Powers Memorandum

Introduction

1. This Delegated Powers Memorandum has been prepared by the Scottish Government in accordance with Rule 9.3.3B of the Parliament's Standing Orders in relation to the UEFA European Championship (Scotland) Bill ("the Bill"). It describes the purpose of each of the subordinate legislation provisions in the Bill and outlines the reasons for seeking the proposed powers.
2. The following other accompanying documents are published separately:
 - Explanatory Notes (SP Bill 60–EN);
 - a Financial Memorandum (SP Bill 60–FM);
 - a Policy Memorandum (SP Bill 60–PM);
 - statements on legislative competence made by the Presiding Officer and the Scottish Government (SP Bill 60–LC).
3. This Memorandum has been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Parliament.

Outline of Bill provisions

4. The Union of European Football Associations (UEFA) has announced that the UK and Ireland will host its 2028 European Championship (EURO 2028) of national member football associations. Scotland is one of the hosting nations. All matches held in Scotland will take place at Hampden Park, Glasgow. There will also be an official fan zone(s) in part of the city centre. For EURO 2020, fan zones were originally intended to be at Merchant City and George Square. When the event took place in 2021, the fan zone was at Glasgow Green.
5. EURO 2028 as a whole is a significant economic opportunity for Scotland. It is another opportunity for Scotland to show the world that Glasgow is a vibrant, cosmopolitan, dynamic city. This will build on the legacy of recent major events. These have included the 2023 UCI Cycling World Championships and the 2024 World Athletics Indoor Championships. The Scottish Government believes that the event will

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reinforce Scotland's and Glasgow's international reputation as a major event and tourist destination, and supports other sectors such as hospitality.

6. For EURO 2028, UEFA has set specific requirements that hosts must meet. The Bill aims to meet UEFA's requirements for Scotland to be able to host EURO 2028 matches in Glasgow.

Ticket Touting

7. Sections 2 to 5 of the Bill make it an offence to tout a EURO 2028 ticket. This includes selling, offering to sell, or making a ticket available for sale by another person. The exceptions to this prohibition include reselling a EURO 2028 ticket at face value or less and the sale of a EURO 2028 ticket by an advertiser where they could not reasonably be expected to know the sale was for more than face value. Exceptions for internet service providers who are hosting, caching or merely a conduit for information are detailed at Schedule 1.

Street Trading

8. Sections 6 to 11 of the Bill make it an offence to trade outdoors within a designated 'event zone' at a prohibited time. Schedule 2 sets out types of trading that are exempt from the offence, including selling current newspapers and public transport services. Glasgow City Council must offer alternative trading arrangements to street traders affected. Glasgow City Council must also issue guidance about trading within event zones.

Advertising

9. Sections 12 to 16 of the Bill make it an offence to advertise within a designated 'event zone' at a prohibited time. This includes advertising of a non-commercial nature, announcements or notices, and the giving away of goods or services. Schedule 3 sets out types of activity and advertising that are exempt from the offence, including demonstrations, commemorations, railway signals, and displays required for civil defence, military or police purposes. Glasgow City Council must issue guidance about advertising within event zones.

Enforcement

10. Sections 17 to 32 of the Bill enable individuals who are designated as enforcement officers, in accordance with the Bill, to take certain enforcement action. They specify the criteria which individuals must meet in order to be designated as enforcement officers. They set out the general powers of enforcement and the specific restrictions on these powers. Provision is also made relating to powers of search and entry, with further restrictions relating specifically to entering houses.

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11. There are also provisions relating to the use of reasonable force, the power to obtain information, the requirement to produce authority, test purchases, compensation in relation to enforcement action, obstruction of an enforcement officer and police powers. Procedures for claiming compensation and the amount awarded are set out in Schedule 4.

Offences

12. Sections 33 and 34 of the Bill set out applicable penalties for Championship offences and make provision for offences committed by bodies corporate.

Rationale for subordinate legislation

13. The Bill includes several delegated powers. When determining where and how provisions should be included in subordinate legislation instead of directly on the face of the Bill, the Scottish Government has considered the necessity to:

- strike the right balance between highlighting the importance of the issue and allowing flexibility to outline details;
- make proper use of valuable parliamentary time; and
- allow administrative arrangements to be as up to date as possible and tailored to the event's circumstances, within the basic structures and principles established in the primary legislation.

14. The delegated powers provisions are listed below, each with a short explanation of what each power allows, why the power was taken in the Bill, and, where relevant, why the selected form of parliamentary procedure has been considered appropriate.

Delegated powers

Section 1: Meaning of key terms

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Negative

Provision

15. Section 1 introduces key terms used in the Bill including “Championship period,” “event zone” and “prohibited time”. These terms are to be specified in regulations. “Event zone” means the areas named in section 1 as defined in regulations. The “Championship period” is the time frame, as specified in regulations made by the Scottish Ministers, that will encompass the period around UEFA EURO 2028. “Prohibited time” means a time during the Championship period that is a prohibited time for the purpose of the trading offence or the advertising offence, as specified in regulations made by the Scottish Ministers.

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Reason for taking power

16. There will be an event around Hampden Park stadium. Other event zones are anticipated to be around official fan zone(s) in central Glasgow. For EURO 2020, fan zones were originally intended to be at Merchant City and George Square. When the event took place in 2021, the fan zone was at Glasgow Green. The Scottish Government is engaging with tournament partners on fan zone locations. The extent of the zones will be set out in maps which will form part of the regulations. Specifying the limits of these zones closer to EURO 2028 taking place will also allow the boundaries to align more rationally with delivery of the event itself. “Prohibited times” are the specific period(s) in which trading and advertising are prohibited within event zones.

Choice of procedure

17. Regulations under this section will be subject to negative procedure. Given that such regulations will be administrative in nature, in that the definitions they provide for will reflect the factual circumstances of the locations of the matches (the Hampden Park zone), the locations of the fan zones and the dates of the tournament, it is considered that negative procedure is appropriate. The Championship period will be a period around the EURO 2028 Championship. The dates for EURO 2028 are yet to be finalised but are projected to be 9 June to 9 July 2028. EURO 2020 ran from 11 June to 11 July 2021 and the Championship period for that tournament was the period beginning on 31 May 2021 and ending on 11 July 2021. Setting the Championship period and extent of the event zones in regulations will allow these to be defined closer to the time of the tournament, by which time more detailed planning and engagement will have taken place. The dates for EURO 2020 were moved due to the coronavirus pandemic. Having the ability to set dates in regulations would also provide flexibility to respond should such unforeseen circumstances arise in the future.

Section 5: Exceptions for providers of information society services etc.

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Affirmative

Provision

18. Section 5 enables the Scottish Ministers to make regulations to modify Schedule 1 (exceptions for providers of information society services etc.), including specifying further circumstances in which a touting offence is or is not committed by a person who makes facilities available in connection with electronic communications or storage of data, essentially the internet. Section 2 will prohibit advertising that a EURO 2028 ticket is available and exposing such a ticket for sale. That offence would therefore have application in relation to internet service providers who provide advertising and sales services.

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Reason for taking power

19. While exceptions have been set out in schedule 1 of the Bill, the pace of technological change – for example, in relation to artificial intelligence – may require these exceptions to be updated.

Choice of procedure

20. Given the regulations would potentially have an effect on criminal liability, it is considered that affirmative procedure is appropriate because it provides for a greater level of scrutiny.

Section 6(3): Ban on outdoor trading within event zones

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Affirmative

Provision

21. Section 6(1) makes it an offence to trade within an event zone at a prohibited time. Section 6(3) enables the Scottish Ministers to make regulations (called “the trading regulations”) to modify schedule 2 (exemptions for certain types of trading) and make such further provision as they consider appropriate in relation to trading within event zones. Section 7 provides that the trading regulations may prescribe, or provide specific criteria for determining, which activities are to be treated as trading, the places that are to be treated as being within an event zone, and/or alternative arrangements for existing street traders during the times when the trading offence applies. Section 8 provides that the trading regulations may prescribe circumstances when trading is permitted by reference to the person who is trading, the nature or purpose of it and the application of any profits. Section 11(2) provides that the trading regulations may require such persons as are specified in the trading regulations to inform other persons about the effect or likely effect of section 6 and the trading regulations.

Reason for taking power

22. Regulations made under section 6 may make further provision relating to activity that is exempt from the trading offence. While schedule 2 makes detailed provision in relation to aspects of the offence and permitted trading, the regulations will enable restrictions to be responsive to local settings and feedback when event zone boundaries and operating times are being set, if required.

Choice of procedure

23. Regulations under this section will be subject to affirmative procedure. In deciding the appropriate procedure to be adopted in relation to the trading regulations made under section 6(3), careful consideration has been given to the degree of parliamentary scrutiny that is felt to be required for the regulations, balancing the need

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for the appropriate level of scrutiny with the need to avoid using up parliamentary time unnecessarily. Considering that the regulations may provide further detail of activities that constitute trading in the event zones and any exemptions that may apply, the affirmative procedure is considered to be the appropriate level of parliamentary scrutiny.

Section 12(3): Ban on advertising in event zones

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Affirmative

Provision

24. Section 12(1) makes it an offence to advertise within an event zone at a prohibited time. Section 12(3) enables the Scottish Ministers to make regulations (called “the advertising regulations”) to modify Schedule 3 (exemptions for certain types of activity) and make such further provision as they consider appropriate in relation to advertising within event zones. Section 12(4) ensures that those exemptions cannot be used to permit ambush marketing.

25. Section 13 sets out activities that are to be treated as advertising for the purposes of section 12. Section 13(3) provides that the advertising regulations may prescribe or provide specific criteria for determining places or areas within the event zones where the advertising offence will not apply.

26. Section 14 provides that the advertising regulations may prescribe circumstances when advertising is permitted by reference to the person who is advertising, the nature or purpose of it and the circumstances of its display.

27. Section 16(2) provides that the advertising regulations may require such persons as are specified in the advertising regulations to inform other persons about the effect or likely effect of section 12 and the advertising regulations.

Reason for taking power

28. Regulations made under section 12 may make further provision relating to permitted activity that is exempt from the advertising offence. While schedule 3 makes detailed provision in relation to aspects of the offence and permitted advertising, the regulations will enable restrictions to be responsive to local settings and feedback when event zone boundaries and operating times are being set, if required.

Choice of procedure

29. Regulations under this section will be subject to affirmative procedure. In deciding the appropriate procedure to be adopted in relation to the advertising regulations made under section 12, careful consideration has been given to the degree of parliamentary scrutiny that is felt to be required for the regulations, balancing the

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need for the appropriate level of scrutiny with the need to avoid using up parliamentary time unnecessarily. Considering that the regulations may provide further detail of activities that constitute advertising in the event zones and any exemptions that may apply and therefore impact potential criminal liability, the affirmative procedure is considered to be the appropriate level of parliamentary scrutiny.

Section 29(4): compensation and recovery of costs

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Negative

Provision

30. Section 29 makes provision relating to compensation for damage caused to property by any act done by an enforcement officer in the exercise of their powers under sections 18 or 22, a person who is assisting an enforcement officer or a constable who is accompanying an enforcement officer. Schedule 4 makes further provision about compensation, including detail on determining the compensation due and conferring on the sheriff jurisdiction for determining disputed compensation. Section 29(4) provides that the Scottish Ministers may modify schedule 4 or make such further provision as is considered appropriate.

Reason for taking power

31. Procedural issues concerning applications for compensation are set out at schedule 4. Given the time period before the tournament takes place, it may be that refinement of this procedure is needed which may also require further provision in relation to compensation more generally.

Choice of procedure

32. Details of the compensation provisions are considered to be predominantly administrative in nature. For example, the regulations could be used to adjust how compensation is to be calculated, the deadlines for submitting a claim, the information to be included with a claim, deadlines for deciding a claim, the information to be included in a decision notice, how a claimant may request a review of a decision or how a claimant may appeal a decision on a review. It is therefore considered that negative procedure is appropriate.

Section 32: Action under section 18 to 28: procedure

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Negative

Provision

33. Sections 18 to 28 set out the provisions relating to the enforcement of Championship offences. The intention of section 32 is to create a power which will allow Ministers to supplement current provisions within sections 18 to 28 with additional provisions which may be considered necessary or appropriate at a later date. The substance of the enforcement provisions is, however, set out on the face of the Bill.

Reason for taking power

34. Regulations made under section 32 will set out further procedures relating to the enforcement of Championship offences. This includes the general powers of enforcement officers, restriction of their powers, procedures for search and entry, the use of force, the requirement to produce evidence of identity and authority, the power to obtain information, and the power to make test purchases.

Choice of procedure

35. The enforcement regulations will set out detail of procedure that is in addition to the substance of the enforcement provisions contained within the Bill. This would allow the enforcement powers to be defined in more detail in light of any particular considerations for EURO 2028 that become apparent nearer the tournament. It is therefore considered that negative procedure is appropriate.

Section 35: Ancillary provision

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Affirmative if modifying primary legislation, otherwise negative

Provision

36. Section 35 of the Bill of the Bill enables the Scottish Ministers to, by regulations, make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to the Act or any provision made under it. Regulations under this section may modify any enactment (including the Act resulting from the Bill).

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Reason for taking power

37. Section 35 follows the standard model for the power to make ancillary provision. Without the power to make incidental, supplementary and consequential provision it may be necessary to return to the Parliament, through subsequent primary legislation, to deal with minor matters that are necessary to give full effect to the original Bill. This would not be an effective use of either the Parliament's or the Government's resources.

Choice of procedure

38. Any regulations made under this section will be subject to the affirmative procedure if they add to, replace or omit any part of the text of primary legislation. Otherwise, they will be subject to the negative procedure. This is a standard procedure for these types of ancillary regulations.

Section 38: Commencement

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Laid, no procedure

Provision

39. Section 38(1) specifies those provisions of the Act which are to come into force on the day after Royal Assent. These are section 35 (ancillary provision), section 36 (regulation-making powers), section 37 (interpretation), section 39 (repeal) and section 40 (short title).

40. Section 38(2) provides that the other remaining provisions are to come into force on such day as the Scottish Ministers may by regulations appoint.

Reason for taking power

41. This power will enable the Scottish Ministers to bring the provisions of the Bill into force and manage the effects of their commencement.

Choice of procedure

42. The default laying requirements will apply, as provided by section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010. The Scottish Ministers consider this appropriate because the policy behind the provisions will already have been considered by the Scottish Parliament during the passage of the Bill.

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