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UEFA European Championship (Scotland) Bill - Stage One

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The UEFA European Championship (Scotland) Bill aims to meet commitments required by UEFA in relation to the protection of commercial rights for event sponsors for the four games being hosted at Hampden Park, Glasgow during June 2020. This legislation proposes restrictions on ticket touting, street trading and advertising which address gaps identified in the current level of protection and meet UEFA requirements.



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Executive Summary

In June 2020 Hampden Park is set to host four games as part of the UEFA European Championships. This legislation ¹ ("the Bill") has been introduced in order to meet UEFA's requirements.

The Scottish Government aim to have the Bill passed by the end of the year so that the secondary legislation can be introduced in time for the Championships starting next year. This is a fairly challenging timeline and means that relatively limited consultation has taken place prior to the introduction of the Bill.

The Bill covers four main areas:

1. [Ticket touting](#)
2. [Street trading](#)
3. [Advertising](#)
4. [Enforcement](#)

Four new offences are being introduced, largely modelled on similar offences which were introduced during the Commonwealth Games in 2014. These are:

1. A ticketing offence for selling a ticket above face value, or with a view to making a profit. This offence will be committed whether the transaction takes place in person or electronically. This offence will be punishable with a fine of up to £5,000.
2. A trading offence for trading in one of the three event zones without appropriate authorisation. This aims to protect UEFA-approved vendors during the hours of operation of the event zones, and will be punishable with a fine of up to £20,000.
3. An advertising offence for advertising in one of the three event zones. This aims to protect UEFA-approved sponsors during the hours of operation of the event zones, and will be punishable with a fine of up to £20,000.
4. An offence will also be created for impeding the work of an enforcement officer. This will be punishable with a fine of up to £5,000.

The Bill also provides Glasgow City Council with the power to designate enforcement officers. The Policy Memorandum ² states that Glasgow City Council will utilise existing trading standards staff with experience of acting as enforcement officers in previous events, including the 2014 Commonwealth Games and the 2012 Olympics.

The ticketing offence be applicable across Scotland, and in the case of electronic sales, outside the country as well. The trading and advertising offences will only be in force during the hours of operation in the three event zones - the Hampden Park zone which will encompass the area around the host stadium, and two fan zones in the city centre (The Merchant City Zone and the George Square Zone). The hours of operation and the precise geographic limits of these zones will be set out by Ministers.

The Bill raises some issues in relation to the European Convention on Human Rights ("the Convention"). Restrictions on street trading and advertising could inhibit businesses' peaceful enjoyment of their possessions, while the powers granted to enforcement officers to enter and search private property could impact individuals' right to respect for private and family life.

The possible impact on businesses' peaceful enjoyment of their property is limited to the period of operation of the three event zones, while the Bill proposes safeguards in relation to enforcement officers exercising their powers to enter and search private property. This can only occur with the consent of the occupier and if the enforcement officer is accompanied by a police officer, or if a warrant has been issued by a sheriff.

The Convention also states that all legislation should be published with sufficient clarity to enable members of the public to understand the law and moderate their behaviour, and also requires that the public are given sufficient notice of the impending changes. As these regulations will be finalised relatively close to the start of the Championships, it will be important to ensure that they are publicised sufficiently so that the public and businesses are given time to prepare.

The total costs associated with the Bill are estimated to be between £70,000 and £134,000. The majority of these costs (between £50,000 to £94,000) will be borne by Glasgow City Council, primarily due to the costs associated with enforcement officers attending the event zones and carrying out enforcement action. The cost of prosecutions is estimated to be between £0 and £10,000 - this is due to the offences not carrying custodial sentences and the expectation that these offences will act as a deterrent. As enforcement officers are to be designated by Glasgow City Council, the costs on Police Scotland are expected to be just £5,000 in relation to staff training.

The Bill includes a sunset clause which provides that the legislation will cease to have effect at the end of December 2020. However, as the advertising and trading offences can only be committed during the Championship (between 12 June and 12 July 2020), these will effectively end after the final game is played at Hampden Park on 28 June (pending confirmation of the hours of operation of the fan zones). The ticketing offence covers all Championship matches, and so an offence could still be committed up to 12 July when the final game is played.

Background to the Bill

Award of the Championships and introduction of the Bill

To commemorate the 60th anniversary of the European Championships, Union of European Football Associations (UEFA) announced in 2012 that the 2020 championship would be hosted by 12 cities across the continent³. In 2014 Glasgow was successful in its bid to host matches, with Hampden Park being awarded three group stage games and one game in the round of 16, between 15 and 30 June 2020.

UEFA requires that host cities have appropriate legislative frameworks in place to protect sponsors' commercial interests during the championship⁴. The Scottish Government has introduced the [UEFA European Championship \(Scotland\) Bill](#) ("the Bill") to address areas of Scots law which don't currently meet UEFA's requirements.

The Bill contains proposals in four main areas:

1. To prohibit the unauthorised sale of Championship tickets in excess of face value or with a view to making a profit.
2. To prohibit unauthorised street trading within an event zone when the event zone is in operation.
3. To prohibit unauthorised advertising within an event zone when the zone is in operation.
4. To create criminal offences for unauthorised ticket touting, street trading, advertising and obstructing an enforcement officer, and provide for the designation of enforcement officers.

The Bill proposes that the Scottish Government be empowered to create regulations through secondary legislation, which will need to be in place in advance of the finals taking place in Summer 2020.

While Glasgow was designated as a host city in 2014, and the [UEFA Evaluation Report in 2014](#)⁵ noted the need for additional legislation, the Scottish Government had been engaging with UEFA and did not expect that legislation would be required. However, the Government states that, following further consultation with partners, it emerged that a Bill would be needed for a small number of areas. The Scottish Government states that the need for primary legislation has therefore only very recently been confirmed. This is why this Bill has been prepared with limited consultation compared to the [Commonwealth Games 2008 Act](#), and considerably closer to the timing of the event.

Other host city arrangements

In addition to Glasgow, there are 11 other host cities; Amsterdam, Baku, Bilbao, Bucharest, Budapest, Copenhagen, Dublin, London, Munich, Rome and Saint Petersburg.

Requirements for legislation for each of the host cities vary depending on existing legal protections in the respective countries. Wembley is also one of the host stadiums, but the changes required are slightly different as English and Welsh law has different provisions, for example relating to ticket touting.

In their [Euro 2020 Evaluation report](#) published in September 2014, UEFA note that:

“ England enjoys very strong ticketing laws enabling the organiser to restrict the unauthorised resale of tickets, which is a criminal offence. In addition, event organisers such as UEFA can seek remedies directly against ticket touting and other unauthorised use of accreditation passes. ⁵ ”

The report also notes that while there is no specific legislation targeting ambush marketing, this can be tackled using existing laws. In contrast, UEFA noted that:

“ Scotland being part of the UK, the legal situation is mostly - but not entirely - identical to that of England and Wales. The unauthorised sale of tickets or accreditation passes for any sports event may be a criminal offence under general law. The national association anticipates that the Scottish Government would assist in implementing event-specific legislation, as was done for the 2014 Commonwealth Games. ⁵ ”

These substantive differences in touting offences - that a specific offence does not exist in Scotland, and that organisers cannot seek remedies explain why primary legislation is not being introduced in England ahead of next year's tournament. It is worth noting that this report was published in September 2014 - so this issue was highlighted five years ago.

While other host cities do have to introduce legislation where their existing laws do not meet with UEFA's standards, only Scotland, Azerbaijan, Italy and Russia are required to implement primary legislation. Other hosts are able to pass secondary legislation in order to meet UEFA's requirements, for example Dublin City Council have introduced [restrictions of street trading in Merrion Square](#) which is to be designated a fan zone. It is notable that the restrictions on trading in the case of Merrion Square are for six weeks during the tournament. In contrast, the Scottish Bill proposes that such restrictions will only apply during the hours of operation of the event zones.

Glasgow Commonwealth Games 2014

The Scottish Parliament also passed legislation in the build up to Glasgow hosting the Commonwealth Games in 2014 (the [SPICe briefing](#) was published in 2008) ⁶ . This legislation was far more substantive, as it covered the financing of the games and transport arrangements. However, it did also contain similar provisions relating to restrictions on ticket touting, street trading, and advertising (along with enforcement of these regulations).

As this legislation was prepared much further in advance of the event, an extensive public consultation was carried out. The following gives a short summary of some of the key issues raised in the [consultation for the Commonwealth Games Bill](#) ⁷ .

- Ticket touting: Questions were raised about whether someone selling a ticket would be able to recoup any administrative fees that they paid in purchasing their ticket, or whether this would contravene the 'above face value' language in the regulations. Glasgow Chambers of Commerce also sought clarification over terms such as the definition of 'trading activities'.
- Street trading: A number of respondents sought clarity on the vicinity of the events - the geographic scope of the regulations was not considered to be entirely clear in the Bill as first proposed.
- Advertising: The Advertising Association responded to the consultation ⁸ and requested that the industry be consulted in advance of the secondary legislation being implemented by Scottish Ministers, with the aim of minimising any unforeseen consequences. The association also raised concerns that broadcast and non-broadcast media could fall foul of the regulations, and sought clarity on the vicinity that they would be applied to.
- Enforcement: The Scottish Police Federation responded to the consultation ⁹, and sought clarity over how training would be provided to enforcement officers who would be receiving considerable powers under the Bill, and what accountability measures would be in place. Concerns were raised that individuals working for a private company would be granted powers comparable to those working for the state such as HMRC officers. This led to changes in the legislation which restricted who could be designated as an enforcement officer.

Content of the Bill

The Bill covers four main areas:

1. [ticket touting](#)
2. [street trading](#)
3. [advertising](#)
4. [enforcement](#).

The proposals in each of these areas, along with the proposed penalties are described in more detail below. These are some provisions which apply to all areas of the Bill: on event zones and periods of operation.

The Bill creates three **event zones**;

1. the Hampden Park Zone
2. the George Square Zone
3. the Merchant City Zone.

The restrictions contained on advertising and street trading will apply in these zones during their hours of operation, but those relating to the touting of tickets will apply across Scotland and beyond. Maps of these zones and their hours of operation will be set out by Scottish Ministers.

The Bill includes a **sunset clause** - it will be automatically repealed on 31 December 2020. Section 17 of the [Interpretation and Legislative Reform Act \(Scotland\) 2010](#) ¹⁰ means that this repeal will not prevent prosecutions for any championship offence under the Bill which is committed prior to this repeal.

The first group stage games are scheduled to take place from 12 June, and the final game will be played at Wembley Stadium in London on 12 July. The regulations covering the sale of tickets for a profit would need to be in place ahead of the game.

However, it is not clear why these regulations need to remain in force for so many months after the final game. As noted, the Interpretation and Legislative Reform (Scotland) Act ensures that the sunset clause does not prevent action being taken against individuals who commit an offence during the period of operation.

The [Policy Memorandum](#) notes that Scottish Ministers shall provide that these regulations will limit the period when trading and advertising offences take place to prohibit times which will fall within the Championship period 12 June to 12 July 2020.

As the Bill proposes new offences the Government has to ensure its compatibility with the [European Convention on Human Rights \(the Convention\)](#) ¹¹. There are four factors to be considered:

1. Whether the laws are set out with sufficient clarity and certainty so that citizens can ensure their compliance, and authorities can effectively inform citizens of the reasons

for their arrest, detention and/or subsequent charge in relation to that offence. The high level details of each offence are set out in the Bill, with details such as the area and times of operation to be confirmed through secondary legislation.

2. As this legislation has been presented to Parliament relatively close to the start of the tournament, and secondary legislation is not yet in place, the Government will need to ensure that sufficient awareness raising activities take place prior to their offences coming in to force. The [Policy Memorandum](#) states that the Government expect an awareness raising programme to include publishing guidance, advertising in local media and offering meetings to local businesses.
3. Regulations limiting street trading and advertising in the event zones, which could restrict or prevent businesses' peaceful enjoyment of their existing possessions during the operation of the event zones. The Bill also proposes that enforcement officers will have the power to seize or destroy offending articles, but the Policy Memorandum notes that this is a last resort.
4. Finally, the Bill proposes that enforcement officers should have the power to use force to enter and search a house. This power is subject to safeguards: this power can only be exercised with permission from the occupier, or if a warrant has been granted by a sheriff. If permission is granted then the enforcement officer must be accompanied by a police officer. This raises issues under Article 8 of the Convention in relation to the right to respect for private and family life.

The Government states that the powers contained within the Bill are proportionate to the aims of the policy, and in the public interest, which therefore addresses the question of incompatibility with the Convention.

Ticket touting

Scots law already has some restrictions around ticket touting, but these relate only to causing a public annoyance to the person being approached to purchase the ticket, or others who have reasonable grounds to be to be annoyed by the sale. An offence has only been committed if this occurs in a public place, and can only be committed if the offender has already been instructed to cease by a uniformed officer. These existing restrictions do not meet UEFA's requirements, and through discussion with UEFA, the Scottish Government has determined that primary legislation will be necessary to fully meet the requirements for hosting games in the 2020 Championship. The Department for Business, Energy & Industrial Strategy have published guidance for business, '[Consumer Rights Act: Secondary Ticketing](#)'¹² which includes sets out the existing position in law which protects the right of consumers to resell tickets.

As demand for tickets is expected to exceed supply, the aim of the Bill is to provide a deterrent to anyone who would seek to make a profit from the resale of tickets, and to provide a basis for both preventative and punitive actions in the event of any breaches. Fines under existing legislation would be to a maximum of £2,500, which might not be considered enough of a deterrent.

The Bill will create a criminal offence to tout a championship ticket at above face value, or with a view to making a profit. This offence will cover transactions in person or by electronic means. The offence will cover transactions taking place outside of Scotland, and covers tickets for all matches that are part of the 2020 Championships. The fine may be up to £5,000.

Street trading

The policy aims of the Bill are to restrict street trading to UEFA-approved vendors in the three event zones during their hours of operation. This is a requirement for all host cities. The Government notes that:

“ The sale of such sponsorship rights provides a significant revenue stream for events which might otherwise have to rely more heavily on public subsidy. ¹³ ”

The Scottish Government also suggests that the regulations will help to manage the flow of people into and out of the event zones, as well as preventing over-commercialisation.

There are currently no street trading licences issued in the Merchant City or George Square event zones, however there are 113 licences for street traders who will be impacted by the proposed Hampden Park Event Zone.

Advertising

Similar to the regulations on street trading, advertising within event zones will be restricted during their hours of operation. Advertising revenue is also used to offset the need for a public subsidy, and UEFA also aims to protect the high standards of the games by restricting clutter and preventing inappropriate advertising.

These restrictions will apply to traditional forms of advertising such as billboards, but also more novel approaches such as handing out free t-shirts. This will also affect businesses in fan zones which have external advertising such as restaurants and bars. The Bill sets out that prior to making advertising regulations (which will contain exemptions to the advertising offence), the Scottish Government will be required to consult the Local Organising Committee (LOC) and any other persons they consider appropriate. Glasgow City Council has made an assessment of media owners likely to be affected by these regulations and has indicated that there are 13 in total, who were invited to drop in sessions while the Bill was being formulated.

Penalties and enforcement

The Bill creates four new offences, an offence for breaching each of the three areas of regulation detailed elsewhere in this briefing ([touting](#), [street trading](#) and [advertising](#)), and additionally an offence for obstructing the work of an enforcement officer.

- **Ticket touting:** The maximum penalty for someone convicted of the touting offence will be a fine not exceeding level 5 on the standard scale (currently £5,000). The Bill provides an exception for advertisers if the advertiser does not and could not be reasonably expected to know that the sale was for above the face value of the ticket, or with a view to making a profit. Scottish Ministers, through secondary legislation, can specify the circumstances in which making facilities available in connection with electronic communication or the storage of data is or is not to be capable of constituting a touting offence.

- **Street trading:** The maximum penalty for someone convicted of the trading offence will be an unlimited fine . This is equivalent to the penalties available for similar offences under the Glasgow Commonwealth Games Act 2008, and the London Olympic Games and Paralympic Games Act 2006. This level of fine reflects the fact that the offence is likely to be of a commercial nature.
- **Advertising:** The maximum penalty for someone convicted of the advertising offence will be an unlimited fine . As with the penalties for the trading offence, this is similar to the penalties available for similar offences under the Glasgow Commonwealth Games Act 2008, and the London Olympic Games and Paralympic Games Act 2006, and reflects that the offence was likely to be of a commercial nature.
- **Enforcement:** The main policy objective is to ensure that the burden of enforcement does not fall on Police Scotland, which might compromise their ability to deliver other commitments in relation to the games. Glasgow City Council will be allowed to designate Trading Standards Officers as enforcement officers. Officers will have a range of powers available to them, including the power to seize, conceal or destroy anything which the officer reasonably believes to be an infringing article. The Bill also makes it an offence to obstruct an enforcement officer. A person convicted of this offence will be liable to a maximum fine of £5,000.

Financial memorandum

The Bill does not cover the cost of hosting games at Hampden Park, and so the Financial Memorandum¹⁴ covers only costs arising related to the provisions listed in this briefing. A Local Organising Committee (LOC) has been created to help deliver the event, with representation from the Scottish Football Association, Scottish Ministers, Glasgow City Council, Hampden Park Ltd, Visit Scotland and Police Scotland. The LOC has a total budget of £9 million to deliver the four games at Hampden Park, with £3.5 million of this coming from the Scottish Government and the remainder from other LOC members. Separately, UEFA pay a stadium rental fee for the use of Hampden Park.

Costs on the Scottish Administration

The Scottish Government expects to incur administrative costs in relation to working with UEFA and the LOC for the implementation of the Bill, and for post-event evaluation. These costs have been estimated at £15,000 to £20,000, and will be met from the Scottish Government's existing administrative budget.

The Crown Office, the Procurator Fiscal Service and the Scottish Courts and Tribunals Service are expected to incur costs relating to the prosecution of cases involving the new offences, and these costs are estimated to be up to £10,000 in total. The Financial Memorandum notes that the new offences are expected to act as a deterrent, and so a relatively small number of prosecutions are expected. Each case is expected to cost the Crown Office and Procurator Fiscal Service £421, and Scottish Courts and Tribunal Service £441. As custody is not an option, there are no expected costs on the Scottish Prison Service.

Costs on local authorities

As the host stadium event zone and two other event zones are in Glasgow, the majority of expected costs are confined to Glasgow City Council. The total expected costs are £50,000 to £94,000; £45,000 to £84,000 relating to enforcement activity and £5,000 to £10,000 are costs associated with raising awareness of the new regulations.

The uncertainty around the cost of enforcement activity stems from not knowing who will be participating in the matches at Hampden Park yet. While the draw for the finals will take place on 30 November 2019, qualifying is not due to be completed until late March 2020. Should the Scottish National Team qualify through the play-offs in March 2020, then at least two of the games at Hampden Park will be 'home' games which is likely to push costs up to the higher end of the estimate. The hours of operation for these event zones have also not yet been confirmed, which will have an impact on the costs associated with enforcement.

Glasgow City Council currently have 22 members of staff within the Trading Standards team, most of whom were designated enforcement officers for the 2012 Olympics and the 2014 Commonwealth Games. However, to effectively cover the three event zones, Glasgow City Council may require extra officers, and are considering whether it would be possible to bring in enforcement officers from other local authorities in order to meet the

short term need. The Council will provide training for all enforcement officers covering the Bill, the regulations made under it and enforcement actions.

Costs on other bodies, individuals and businesses

Costs on Police Scotland are estimated at £5,000, and relate to staff training. As the Bill provides for the designation of enforcement officers within Glasgow City Council, the Bill is not expected to entail material costs on the Police in terms of enforcement.

While in aggregate the impact on businesses is expected to be positive (the Financial Memorandum states that when Hampden Park hosted the UEFA Cup Final in 2007 there was a net impact of £10m in Glasgow, and around £1.5m outside of Glasgow), the restrictions on street trading will impact some businesses. At present, there are no licensed street traders in the Merchant City or George Square event zones, but there are traders who normally operate on match days in the proposed Hampden Park Zone. The Financial Memorandum highlights that the matches being played at Hampden are not replacing other games, and so any income lost would have been additional income due to the Championships taking place, in part, in Glasgow. The Bill also places a duty on Glasgow City Council to offer affected traders alternative trading arrangements for when the event zones are in operation.

The Scottish Government published a [partial Business and Regulatory Impact Assessment](#)¹⁵ to accompany the bill which includes more detail on the expected impact on businesses. The Scottish Government held two informal drop in sessions and further phone conversations with street traders who are likely to be affected by the Hampden Park Event Zone.

Glasgow City Council and Police Scotland were consulted in preparing the Financial Memorandum, but due to the tight timetable there was not time for a full public consultation.

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