

POLICY NOTE

DRAFT : THE GLASGOW COMMONWEALTH GAMES ACT 2008 (TICKET TOUTING OFFENCE) (EXCEPTIONS FOR USE OF INTERNET ETC.) (SCOTLAND) REGULATIONS 2012

1. These Regulations are made in exercise of the powers conferred by sections 19 and 43(2) of the Glasgow Commonwealth Games Act 2008 (asp 4) (“the Act”) and section 2(2) of the European Communities Act 1972 (c.68). They specify circumstances in which making facilities available in connection with electronic communications or the storage of data is, or is not, be capable of constituting a ticket touting offence under section 17 of the Act. They also ensure compliance with Directive 2000/31/EC on certain legal aspects of information society services in the Internal Market (OJ L 178, 17.7.2000, p.1).

Policy objectives

2. It is a requirement of hosting the Glasgow 2014 Commonwealth Games that the Scottish Ministers meet commitments given to the Commonwealth Games Federation. These require measures to be taken prevent the touting of tickets.

3. Measures to prevent the touting of Commonwealth Games tickets are provided for in the Act. In particular, when section 17 of the Act comes into force on 29th November 2012, it will become an offence (“the touting offence”) for an unauthorised person to sell, offer to sell, expose for sale, advertise, make available or give away a Games ticket in a public space, 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. However, it does not apply to acts done by the Organising Committee or the Commonwealth Games Federation and acts otherwise done in accordance with an authorisation given by the Organising Committee.

4. Regulations 4 to 6 specify circumstances involving mere conduit, caching and hosting of information society services which are not capable of constituting the touting offence. In addition, regulation 3 provides that where an information society service provider is based in another EEA state, proceedings cannot be taken against that provider unless certain preconditions are met. These provisions are necessary to ensure compliance with Directive 2000/31/EC on certain legal aspects of information society services in the Internal Market.

Consultation

5. A 12-week public consultation on the draft regulations was launched on 7 March 2012. In particular, businesses that might be affected such as the internet ticketing industry (primary, resale and specialist ticketing agents) were consulted. Two responses were received. Both supported the introduction of the regulations. The Organising Committee, Glasgow City Council and trading standards officials were also consulted on the proposals for these regulations.

Impact assessments

6. The impact on business of making these Regulations is minimal because they specify circumstances which are not capable of constituting the touting offence. Businesses will not therefore have any additional administrative burden placed on them. A Business Regulatory Impact Assessment will be published on the Scottish Government’s website shortly.

Financial effects

7. These Regulations are not considered to have any significant financial effect on the Scottish Government, local government or on business.

Scottish Government
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