
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No.

**The Glasgow Commonwealth Games Act 2008
(Ticket Touting Offence) (Exceptions for Use
of Internet etc.) (Scotland) Regulations 2012**

Interpretation

2.—(1) In these Regulations—

“the Act” means the Glasgow Commonwealth Games Act 2008;

“EEA state” means a state which for the time being is a member State or a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽¹⁾, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993⁽²⁾, as modified or supplemented from time to time;

“information society service” has the meaning given in Article 2(a) of Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market⁽³⁾;

“information society service provider” means a person providing an information society service;

“law enforcement officer” means—

- (a) an enforcement officer within the meaning of section 21 of the Act; or
- (b) a constable;

“recipient” means a person who (whether for professional purposes or not) uses an information society service, in particular for seeking information or making it accessible; and

“the touting offence” means the offence in section 17(1) of the Act.

(2) For the purposes of these Regulations—

(a) an information society service provider is “established” in a country or territory if the provider—

- (i) effectively pursues an economic activity using a fixed establishment in that country or territory for an indefinite period; and
- (ii) is a national of an EEA state or a body mentioned in Article 54 of the Treaty on the Functioning of the European Union⁽⁴⁾;

⁽¹⁾ Command Paper 2073 and OJ L 1, 3.1.1994, p.3.

⁽²⁾ Command Paper 2183 and OJ L 1, 3.1.1994, p.572.

⁽³⁾ OJ L 178, 17.7.2000, p.1. The Directive has been incorporated into the EEA agreement by Decision 91/2000 of the EEA Joint Committee (OJ L 7, 11.1.2001, p.13). Article 2(a) defines “information society services” to mean “services” within the meaning of Article 1(2) of Directive 98/34/EC (OJ L 204, 21.7.1998, p.37) as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p.18) which provides that it is any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service.

⁽⁴⁾ OJ C 115, 9.5.2008, p.47.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Glasgow Commonwealth Games Act 2008 (Ticket Touting Offence) (Exceptions for Use of Internet etc.) (Scotland) Regulations 2012 No. 323

- (b) the presence or use in a particular place of equipment or other technical means of providing an information society service is not itself sufficient to constitute the establishment of an information society service provider; and
- (c) where it cannot be decided from which of a number of establishments an information society service is provided, the service is to be regarded as provided from the establishment at the centre of the information society service provider's activities relating to that service.