

POLICY NOTE

THE GLASGOW COMMONWEALTH GAMES ACT 2008 (COMPENSATION FOR ENFORCEMENT ACTION) (SCOTLAND) REGULATIONS 2013

SSI 2013/160

The above instrument was made in exercise of the powers conferred by sections 30(2) and 43(2) of the Glasgow Commonwealth Games Act 2008. The instrument is subject to negative procedure.

Policy Objectives

Background

The Glasgow Commonwealth Games Act 2008 empowers an enforcement officer or a constable to take reasonable steps to prevent or end a Games offence e.g. ticket touting or unauthorised street trading. These steps can include entering and searching property and the use of reasonable force when taking such steps. It is possible that an enforcement officer or constable might damage property in the course of preventing or ending such offences. If the property belongs to someone who has not committed the offence that the enforcement officer was seeking to end or prevent, section 30 of the Act allows that person to seek compensation. If the damage is caused by an enforcement officer, or a constable accompanying an enforcement officer, then compensation can be claimed from the Glasgow 2014 Organising Committee. If the damage is caused by a constable who is not accompanying an enforcement officer, then compensation can be claimed from the Scottish Police Authority. Section 30 of the 2008 Act allows Ministers to make regulations which set out the process for claiming compensation, how much compensation can be claimed and conferring jurisdiction for determining compensation where there is a dispute.

Regulations

These regulations set out the process for claiming compensation. This includes the timescales for each party at each stage, including:

- The person claiming compensation should send a notice in writing of their claim to the relevant authority within 30 days of the date on which the damage occurred, unless there has been a delay of 14 days or more between the damage occurring and the person being notified, for example where there is a delay in a tenant informing a local authority landlord, in which case the notice must be sent within 3 months;
- The relevant authority must determine within 14 days of the claim notice whether it has enough evidence to make a decision about the claim, and send a written notice to the person claiming if it does not;
- Once the relevant authority has enough evidence to make a decision, they have 28 days to decide whether the claim is valid under the 2008 Act (described in the background above) and whether the person claiming is entitled to the amount of compensation they have claimed. The relevant authority must then write to the person with their decision;
- The person claiming can request the authority to review the decision, and should make that request within 14 days (unless a longer timescale has been agreed by the relevant authority in writing) and the authority should review the claim and make a decision within 14 days of receiving the review request;
- If the claimant does still not agree with the decision, they can make an appeal to the sheriff within 21 days of receiving the decision from the review.

The regulations also set out the information that should be provided when making a claim, including the date the damage occurred, the amount of compensation claimed and a description of the damage, amongst other things. The regulations set out that the amount of compensation that can be claimed is the cost of repairing the damage, or if it is not possible to repair the item, the cost of replacing the item. Jurisdiction for appeals, if the award or amount of compensation is disputed, is conferred on the sheriff.

Consultation

A public written consultation took place from 23 January to 18 April 2013.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website, it includes Police Scotland, Scottish Courts Service and South Lanarkshire Council.

Impact Assessments

An equality impact assessment has been completed on the draft SSI and is attached. There are no equality impact issues.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business is likely to be minimal as it is estimated that the probability of a compensation claim being raised is low. The most likely businesses to be affected are the Glasgow 2014 Organising Committee, who were consulted face-to-face and did not believe these regulations would have a significant impact, and the Scottish Police Authority.

Scottish Government
Commonwealth Games and Sport Directorate
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