

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Football Clubs

Overview

357. This Part provides the Scottish Ministers with a power to make regulations about the role that the supporters of football clubs play in connection with the club they support.
358. There are two main aspects to what the Scottish Ministers can do by means of these regulations. Firstly, the Scottish Ministers may make provision designed to assist the supporters of a football club to become more involved in the making of decisions about the management, operation or governance of the football club they support. Secondly, regulations may be made to facilitate supporter ownership of football clubs (for example, by conferring a right to buy the club or part of it).
359. The power is provided in section 99(1) and the remaining provisions of the Part provide further detail as to how the power may be exercised. The provision should also be read in conjunction with section 142 (which makes general provision about subordinate legislation under the Act) which provides that different provision may be made in different circumstances and allows for a range of ancillary provision to be made in connection with the regulations. Section 142 also specifies that regulations made under section 99(1) are subject to the affirmative procedure.

Facilitation of supporter involvement in football clubs

360. [Section 99\(1\)](#) confers power on the Scottish Ministers to bring forward regulations which may facilitate:
- supporter involvement in the making of decisions that are about the management, operation or governance of the football club which they support; and
 - supporter ownership of their club.
361. Subsection (2) confirms that the regulations may include the creation of rights or interests or the imposition of liabilities or conditions assigned to property (or an interest in property) of any description. This type of provision may be necessary for the creation of a right to buy or other form of supporter ownership scheme. For example, it may be necessary to restrict the options that the owner of a football club has to sell their interest in the club where supporters have followed the appropriate procedures to indicate they wish to buy the club (or a part of it).
362. Subsection (3) requires the Scottish Ministers to consult widely before making any regulations under the section. In particular, they must consult representatives of football

clubs, the leagues those clubs play in, the players and the supporters as well as any other person or body that the Scottish Ministers consider appropriate.

Supporter involvement in decision-making

363. [Section 100](#) elaborates on the regulations which may be made under section 99(1)(a) to facilitate supporter involvement in the decision making of a football club. It is largely self-explanatory. However the key aspects are:
- The regulations will need to identify the clubs that are to be regulated (paragraph (a)), how the fans of the club are to make it known that they want to be involved in the decisions of the club (paragraph (b)) and the types of decisions involved (paragraph (e)). That might, for example, involve specifying that the provisions apply to clubs in a specific league or which share certain characteristics (e.g. professional clubs). For fans to be involved, they may need to hold season tickets, join a supporter organisation or take some other action. And, for clubs to be able to function efficiently and effectively, it may be appropriate to specify that the involvement of fans is focused on particular decisions (e.g. the relocation of the stadium).
 - The regulations may require football clubs to provide information to their supporters about how the club is run and how the property of the club is held (paragraph (c)). This may include information on a range of topics from the management structure to who owns particular assets (like the stadium or training grounds).
 - Paragraph (d) confirms that the regulations can set out the manner in which supporters are to be involved in decision making. There is a range of options available in this regard and different management structures may necessitate different approaches. In that regard, it is also possible that individual clubs may develop different strategies to best reflect their particular circumstances over and above anything that may be set out in the regulations.
 - Lastly, paragraph (f) confirms that the regulations may provide for the consequences for football clubs if they fail to involve their supporters in decision making in contravention of the regulations.

Supporter ownership

364. [Section 101](#) elaborates on the regulations which may be made under section 99(1)(b) to facilitate supporter ownership of football clubs.
365. As with other regulations which may be made under section 99(1), provision may specify the types of club that are subject to the regulations (paragraph (a)) and the steps a person must take, firstly to be recognised as a supporter and secondly in order to be able to exercise rights conferred by the section (paragraph (e)).
366. Additionally, regulations in connection with facilitating supporter ownership may address the type of asset that the supporters are to be able to buy (paragraph (b)), how the value of that asset is to be ascertained (paragraph (c)), the circumstances in which the rights may be exercised (paragraph (d)), how supporters are to go about the purchase (paragraph (e)), and the rights and obligations of the owners, creditors and other people with an interest in the club (paragraphs (g), (h) and (i)). Given the variety of ownership models for football clubs the regulations may need to set out different procedures in relation to different types of club and asset.
367. Supporters may be required to form into bodies or associations to be able to exercise any right to buy (paragraph (e)). In that situation, it is expected that the regulations would deal with the constitution of such a body or association and how it represents its members and makes decisions.

*These notes relate to the Community Empowerment (Scotland)
Act 2015 (asp 6) which received Royal Assent on 24 July 2015*

368. Regulations under this section may also deal with the resolution of disputes, appeals and the consequences of failing to comply with the regulations (paragraphs (h), (j) and (k)). Again, the regulations may have to cater for a variety of circumstances in this regard given the range of interests in football clubs and the different types of assets involved.