
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

The London Olympic Games and Paralympic Games
(Advertising and Trading) (Scotland) Regulations 2011

PART 5

Compensation

Interpretation of this Part

18. In this Part—

“claimant” has the meaning given in regulation 20(1) (notice of claim);

“decision notice” means a notice issued by a relevant authority under regulation 22(2)(b) or (3) (authority’s decision on a claim);

“enforcement officer” means a person designated for the purposes of section 22 (enforcement: power of entry) or 28 (enforcement: power of entry) of the Act by the Olympic Delivery Authority;

“notice of claim” has the meaning given in regulation 20(1); and

“relevant authority”, in relation to the exercise or purported exercise of a power under section 22 or 28 of the Act means—

- (a) if the exercise or purported exercise of the power was by an enforcement officer, the Olympic Delivery Authority; or
- (b) if the exercise or purported exercise of the power was by a constable, the police authority for the police force of which the constable is a member.

Entitlement to compensation for damage to property

19.—(1) A person whose property is damaged in the course of the exercise or purported exercise of a power under section 22 or 28 of the Act is entitled to compensation from the relevant authority in accordance with this Part.

(2) A person who, in the reasonable belief of the relevant authority, is responsible for a contravention of these Regulations is not entitled to compensation.

(3) The amount of the compensation payable is the total of—

- (a) the cost of repairing the damaged property to its previous condition (or in the case of property which is impossible to repair or if the cost of repairing would exceed the property’s market value, the cost of replacing the property at market value); and
- (b) any further loss which was a direct result of the damage to the property.

Notice of claim

20.—(1) A person claiming entitlement to compensation under this Part (a “claimant”) must send a written notice (a “notice of claim”) to the relevant authority claiming that compensation.

- (2) A notice of claim must be sent within—
- (a) 30 days of the date on which damage occurred; or
 - (b) such longer period as agreed by the relevant authority in writing.
- (3) A notice of claim must include or be accompanied by the following information and evidence—
- (a) the claimant’s full name;
 - (b) the date on which the damage occurred;
 - (c) the address or location at which the damage occurred;
 - (d) the amount of compensation claimed (in accordance with regulation 19(3)) and the basis of the calculation of the amount claimed;
 - (e) a description of—
 - (i) the property damaged;
 - (ii) the nature of the damage; and
 - (iii) the nature of any further loss which flowed from the damage for which compensation is claimed; and
 - (f) photographs, receipts, quotations or other evidence as to the matters referred to in subparagraphs (a) to (e).

Initial consideration of claim

21.—(1) Within 14 days of the date on which a relevant authority receives notice of a claim, the authority must determine whether it has received sufficient information and evidence to enable it to decide—

- (a) whether the claimant is entitled to compensation under this Part; and
- (b) if the claimant is entitled, the amount of compensation.

(2) If the authority determines that it has not received sufficient information or evidence, it must send the claimant a written notice stating the further information or evidence that the authority requires.

- (3) The claimant must send the authority the information or evidence stated in the notice within—
- (a) 14 days of the date on which a claimant receives a notice under paragraph (2); or
 - (b) such longer period as agreed by the relevant authority in writing.

(4) Within 7 days of the date on which the authority receives any such additional information or evidence, the authority must make the determination referred to in paragraph (1) again (and the other paragraphs of this regulation apply to that new determination).

Authority’s decision on a claim

22.—(1) If a relevant authority determines under regulation 21 that it has received sufficient information and evidence it must, within 14 days of the date of that determination, decide the matters referred to in regulation 21(1)(a) and (b).

- (2) If the authority decides that the claimant is entitled to compensation it must—
- (a) pay to the claimant the amount of compensation stated in the notice of claim; or
 - (b) if it decides that the claimant is entitled to a lesser amount of compensation than that stated in the notice of claim, send a notice to the claimant—
 - (i) offering that lesser amount to the claimant; and

(ii) stating the reasons for its decision.

(3) If the authority decides that the claimant is not entitled to compensation it must send a notice to the claimant—

- (a) declining the claim; and
- (b) stating the reasons for its decision.

(4) A claimant who receives a decision notice offering a lesser amount of compensation than stated in the notice of claim may agree, in writing, to accept that lesser amount (in which case the authority must pay that amount to the claimant).

(5) A decision notice must contain particulars of the claimant's rights to—

- (a) request a review of the decision under regulation 23; and
- (b) appeal a decision on a review under regulation 24.

Review of decision on a claim

23.—(1) A claimant who receives a decision notice may request the relevant authority to review its decision.

(2) Such a request must—

- (a) be in writing;
- (b) be made within—
 - (i) 14 days of the date on which the decision notice was received; or
 - (ii) such longer period as agreed by the relevant authority in writing; and
- (c) include or be accompanied by such information or evidence as the claimant considers relevant.

(3) Within 14 days of the date on which a relevant authority receives such a request it must review its decision under regulation 22.

(4) On reviewing its decision, the authority may—

- (a) confirm the original decision; or
- (b) substitute a new decision for the original decision.

(5) On reviewing its decision the authority may not substitute a lesser amount of compensation than that stated in the decision notice.

(6) The authority must send to the claimant a written notice informing that person of its decision on the review and the reasons for that decision.

(7) A notice under paragraph (6) must contain particulars of the claimant's right to appeal a decision on review under regulation 24.

Appeal to the sheriff

24.—(1) A claimant dissatisfied with the decision of the relevant authority on a review under regulation 23 may appeal to the sheriff.

(2) An appeal must be brought within 21 days of the day on which the claimant received written notice of the authority's decision on review.

(3) The sheriff may give permission for an appeal to be brought after the end of that period, but only if the sheriff is satisfied—

- (a) if permission is sought before the end of that period, that there is a good reason for the claimant being unable to bring the appeal in time; or

- (b) if permission is sought after that time, that there was a good reason for the claimant's failure to bring the appeal in time and for any delay in applying for permission.
- (4) On appeal under this regulation, the sheriff may make such order confirming, quashing or varying the decision as the sheriff thinks fit.