

Draft Regulations laid before the Scottish Parliament under section 32(2) of the UEFA European Championship (Scotland) Act 2020 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

SPORTS GROUNDS AND SPORTING EVENTS

The UEFA European Championship (Trading and Advertising) (Scotland) Regulations 2020

Made - - - - 2020

Coming into force in accordance with regulation 1(1)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1(1), 6(3), 7(3), 12(2) and 13(3) of the UEFA European Championship (Scotland) Act 2020⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 33(1) of that Act, they have consulted the Local Organising Committee and other persons they consider appropriate.

In accordance with section 33(2) of that Act, they have had regard to any requests or guidance from UEFA and, where relevant, the impact of these Regulations on the effective operation of the Championship.

In accordance with section 32(2) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010⁽²⁾. The Regulations are subject to affirmative procedure by virtue of section 33(3) of that Act.

PART 1

Introductory

Citation, commencement and cessation

1.—(1) These Regulations may be cited as the UEFA European Championship (Trading and Advertising) (Scotland) Regulations 2020 and come into force on the day after the day on which they are made.

(1) 2020 asp 1. Section 1 was relevantly amended by the Coronavirus (Scotland) (No. 2) Act 2020 (asp 10).

(2) 2010 asp 10.

- (2) These Regulations cease to have effect on the day on which the Act ceases to have effect.

General interpretation

2. In these Regulations—

“the Act” means the UEFA European Championship (Scotland) Act 2020,

“article” includes a living thing,

“building” excludes a telephone kiosk,

“event zone” is defined in schedule 1, and the event zones defined in schedule 1 are shown delineated on the maps in schedule 3,

“Glasgow Life” means Culture and Sport Glasgow, a company limited by guarantee, registered in Scotland (number SC313851) and having its registered office at 38 Albion Street, Glasgow G1 1LH,

“the Host City Contract” means the Host City Agreement, Host City Guidelines and Fan Zone Guidelines, made between UEFA and Glasgow City Council,

“newspaper” excludes a newspaper whose sole or principal effect is to advertise one or more of the following in an event zone at a prohibited time—

- (a) a good or service,
- (b) a person who provides a good or service, and

“UEFA” means the Union of European Football Associations,

“UEFA Partner” means a person or body who is party to a sponsorship or licence agreement with the Union of European Football Associations in relation to a good or service in respect of the Championship.

PART 2

Trading Regulations

Interpretation of Part 2

3. In this Part—

- (a) any reference (however phrased) to selling an article includes a reference to offering or exposing an article for sale,
- (b) any reference (however phrased) to supplying a service includes a reference to offering to supply a service,
- (c) “busking” means a performance of live music in a street, during which members of the public are invited to give money to the performers,
- (d) “motor vehicle” has the same meaning as in section 185 of the Road Traffic Act 1988⁽³⁾,
- (e) “open public place” means—
 - (i) a road, or
 - (ii) another place—
 - (aa) to which the public have access (whether generally or only for the purpose of the trading), and

(3) 1988 c.52.

- (bb) which is not in a building (except one designed or generally used for the parking of cars),
- (f) “performance of a play” means performance of any dramatic piece, whether improvisational or not—
 - (i) given wholly or in part by one or more persons actually present and performing, and
 - (ii) in which the whole or a major proportion of what is done by the person performing, whether by way of speech, singing or action, involves the playing of a role,
- (g) “public entertainment” means entertainment of one of the following descriptions provided for members of the public—
 - (i) a performance of live music,
 - (ii) any playing of recorded music,
 - (iii) a performance of dance,
 - (iv) a performance of a play,
 - (v) any entertainment of a similar description to that in heads (i) to (iv),
- (h) “selling an article” includes trading by a person acting as a pedlar whether or not under the authority of a pedlar’s certificate granted under the Pedlars Act 1871(4), and
- (i) “trading activity” means activity which, in terms of regulation 4, is to be treated as trading for the purposes of the trading offence.

Trading activity

4.—(1) The activities set out in paragraph (2) are to be treated as trading for the purposes of the trading offence if carried out in an open public place.

- (2) Those activities are—
- (a) selling an article,
 - (b) supplying a service,
 - (c) making an appeal to members of the public to give money or other property (or both) for charitable or other purposes,
 - (d) providing public entertainment for gain or reward.

(3) In determining whether an activity is to be treated as trading for the purposes of the trading offence, the following matters are to be disregarded—

- (a) that any gain or reward arising from the activity does not accrue to the person actually carrying out the activity,
- (b) that either party to a transaction is not in an open public place when one of the following activities occurs—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,
 - (iii) the completion of a transaction,
- (c) that a transaction was not completed in an open public place, if one of the following activities occurs in such a place—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,

- (d) that an article actually sold or service actually supplied was different from that originally offered or exposed for sale.

Prohibited times

5. The times set out in schedule 2 are the prohibited times for the purposes of the trading offence.

Types of trading exempt from trading offence

- 6.—(1) The following trading activities are exempt from the trading offence—
- (a) selling current newspapers,
 - (b) activity undertaken by Glasgow City Council, or undertaken, controlled or restricted by Glasgow Life,
 - (c) activity undertaken by a UEFA Partner,
 - (d) selling or delivering an article, or supplying a service, to a person in premises adjoining a road,
 - (e) selling a motor vehicle on private land generally used for the sale of motor vehicles,
 - (f) supplying motor vehicle cleaning services on private land generally used for the supply of those services,
 - (g) supplying motor vehicle parking services in a building designed or on other land designed or generally used for the parking of motor vehicles,
 - (h) supplying motor vehicle breakdown and recovery services,
 - (i) providing a public sanitary convenience,
 - (j) providing a telephone kiosk,
 - (k) providing an automated teller machine in or from a building for cash withdrawals and other banking services,
 - (l) trading as a walking tour operator,
 - (m) busking,
 - (n) supplying public transport services, including tourist services but not including supplying pedicabs,
 - (o) activity on land adjacent to exempt retail premises provided that the activity—
 - (i) forms part of the usual business of the owner of the premises or a person assessed for rating in respect of the premises, and
 - (ii) takes place during the period for which the premises are open to the public for business,
 - (p) activity carried out by a person who has been granted permission in respect of the activity by Glasgow City Council under section 119 of the Civic Government (Scotland) Act 1982⁽⁵⁾.
- (2) Paragraph (1)(a) does not apply to—
- (a) selling current newspapers in a street if the selling is done in a manner that causes undue interference or inconvenience to persons using the street, or
 - (b) selling a newspaper if the purchaser is provided with an item or advertising supplement accompanying the newspaper, and forming part of an ambush marketing campaign.

(5) 1982 c.45. Section 119 was last amended by the Local Government etc. (Scotland) Act 1994 (c.39). It is prospectively amended by the Charities Act 1992 (c.41) and prospectively repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

(3) In this regulation—

“exempt retail premises” means a building normally used as—

- (a) a shop,
- (b) a restaurant or bar or otherwise used for the supply of meals, refreshments or alcohol to the public, or
- (c) a petrol filling station, car showroom or car garage,

“sanitary convenience” means closet or urinal,

“supplying pedicabs” means supplying transport services using pedal operated tricycles,

“tourist services” means public transport services primarily for the benefit of tourists, and

“walking tour operator” means a person who supplies services to the public comprising tours of an area on foot.

PART 3

Advertising Regulations

Interpretation of Part 3

7.—(1) In this Part—

“advertisement” means any word, letter, image, mark, sound, light, model, sign, placard, board, notice, screen, awning, blind, flag, device, costume or representation—

- (a) whether illuminated or not, and
- (b) in the nature of, and employed wholly or partly for the purpose of, advertisement, promotion, announcement or direction,

“advertiser” means a person who engages in advertising activity,

“advertising activity” means an activity which is to be treated as advertising under section 13(1) of the Act,

“advertising attire” means—

- (a) a costume that is an advertisement, or
- (b) clothing on which an advertisement is displayed,

“Euro 2020 Product Categories” means those categories of goods or services set out in schedule 4,

“promotional material” means a document or article distributed or provided wholly or partly for the purposes of promotion, advertisement, announcement or direction,

“railway station” includes a subway station, and

“the Town and Country Planning Regulations” means the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984(6).

(2) In this Part, “displaying an advertisement” includes—

- (a) projecting, emitting, screening or exhibiting an advertisement,
- (b) carrying or holding an advertisement or an apparatus by which an advertisement is displayed,
- (c) providing for an advertisement to be displayed—

- (i) on an animal, or
- (ii) on apparatus which is carried or held by an animal.

(3) Advertising activity that consists of the display of an advertisement on a hand-held device is not to be treated as advertising for the purposes of section 13(1) of the Act unless the advertiser intends the advertisement to be displayed, by means of the device, to the public at large (rather than only to the individual using the device).

(4) In paragraph (3), “hand-held device” means a hand-held mobile telephone or other personal interactive communication device.

Prohibited times

8. The times set out in schedule 2 are the prohibited times for the purposes of the advertising offence.

Exception for demonstrations, etc.

- 9.**—(1) Advertising activity is exempt from the advertising offence where it is intended to—
- (a) demonstrate support for or opposition to the views or actions of any person,
 - (b) publicise a belief, cause or campaign, or
 - (c) mark or commemorate an event.
- (2) But this exception does not apply to advertising activity that promotes or advertises—
- (a) a good or service, or
 - (b) a person or body that provides a good or service.

Exception for individuals wearing advertising attire, displaying advertisements on their bodies or carrying personal property

10.—(1) Advertising activity is exempt from the advertising offence where it is engaged in by an individual doing one or more of the following:—

- (a) wearing advertising attire,
- (b) displaying an advertisement on the individual’s body,
- (c) carrying or holding personal property on which an advertisement is displayed,

unless the individual knows or had reasonable cause to believe that he or she is participating in an ambush marketing campaign.

(2) The application of this exception to an individual does not affect the application of section 12(1) of the Act to any other person (whether in respect of the same advertising activity or otherwise).

Exceptions modelled on the Town and Country Planning Regulations

11.—(1) Advertising activity is exempt from the advertising offence where it consists of the display of an advertisement—

- (a) to which the Town and Country Planning Regulations do not apply, by virtue of regulation 3(1) and (3) (application) of those Regulations, or
- (b) for which consent is granted by regulation 10(1) (deemed consent for display of advertisement) of those Regulations, as long as the display or advertisement complies with the conditions set out in schedules 1 and 4 of those Regulations.

- (2) But the exception in paragraph (1) does not apply to the display of the following:—
- (a) an advertisement described in regulation 3(1)(c) (advertisements incorporated in the fabric of a building) of those Regulations if the advertisement was not in existence at the date these Regulations came into force,
 - (b) an advertisement described in regulation 3(1)(d) (advertisements displayed on enclosed land) of those Regulations, if the enclosed land on which the advertisement is displayed is—
 - (i) a railway station (and its yards),
 - (ii) a bus station (together with its forecourt whether enclosed or not), or
 - (iii) enclosed land (including a sports stadium or other building),
 - (c) an advertisement mentioned in regulation 3(1)(e) or (3) (display on or consisting of a balloon) of those Regulations,
 - (d) an advertisement mentioned in regulation 13(1) and (3) (advertisements on sites used for the display of advertisements on 16th August 1948) of those Regulations,
 - (e) an advertisement under regulation 19 (display of advertisements after expiry of express consent) of those Regulations,
 - (f) an advertisement within Class I(2) if the advertisement—
 - (i) is not displayed wholly for the purpose of announcement or direction in relation to the functions of the planning authority by which it is displayed, and
 - (ii) is not reasonably required to be displayed for the safe or efficient performance of those functions,
 - (g) an advertisement within Class III(4) (certain advertisements of a temporary nature) if the advertisement promotes or advertises—
 - (i) a good or service,
 - (ii) a person or body that provides a good or service,
 - (h) an advertisement within Class III(6) (certain advertisements of a temporary nature—hoardings),
 - (i) an advertisement within Class V (advertisements within buildings) other than an exempt business advertisement, if the building where the advertisement is displayed—
 - (i) is or forms part of a railway station or bus station, or
 - (ii) is a sports stadium.
- (3) In this regulation—
- (a) “exempt business advertisement” means an advertisement (whether illuminated or not) displayed on business premises within a building (or a forecourt associated with such premises) that refers wholly to any or all of the following: the business carried on, the goods or services provided, or the name or qualifications of the person carrying out the business or supplying the goods or services on those premises,
 - (b) “forecourt” includes any fence, wall or similar screen or structure enclosing a forecourt and not forming part of the fabric of a building constituting business premises,
 - (c) a reference to a “Class” of advertisement is a reference to the corresponding Class of advertisement in schedule 4 of the Town and Country Planning Regulations.

Other exceptions

- 12.—**(1) Advertising activity is exempt from the advertising offence if it constitutes—

- (a) displaying an advertisement employed wholly as—
 - (i) a memorial, or
 - (ii) a railway signal,
 - (b) distributing or providing current newspapers,
 - (c) activity undertaken by Glasgow City Council, or undertaken, controlled or restricted by Glasgow Life,
 - (d) activity undertaken by a UEFA Partner,
 - (e) an advertisement in existence before the coming into force of these Regulations that remains in existence, and is displayed by or on behalf of an advertiser in relation to a good or service other than a good or service falling within one or more of the Euro 2020 Product Categories specified in schedule 4,
 - (f) any advertisement in respect of which advertisement a contract has been made before the coming into force of these Regulations under the terms of which contract that advertisement may not be cancelled or altered without a financial penalty being payable,
 - (g) displaying an advertisement on an aircraft for one or more of the following purposes—
 - (i) complying with the law of Scotland or any other country, being law in force in relation to the aircraft,
 - (ii) securing the safety of the aircraft or any person or property,
 - (iii) the furtherance, by or on behalf of the Scottish Ministers or a government department, by a person acting under any public duty or by a person providing ambulance or rescue services by air, of measures in connection with circumstances existing or imminent at the time the aircraft is used which may cause danger to persons or property,
 - (iv) civil defence, military or police purposes,
 - (h) displaying a mark or inscription (other than an illuminated sign) on the body of an aeroplane or helicopter, or
 - (i) displaying an advertisement on street furniture provided that the advertisement—
 - (i) is not illuminated,
 - (ii) bears only the name, contact details and device (or any one or more of those things) of the manufacturer, owner or operator of the street furniture, and
 - (iii) is not displayed as part of an ambush marketing campaign.
- (2) Paragraph (1)(b) does not apply to—
- (a) distribution or provision of current newspapers in a street if the distribution or provision is done in a manner that causes undue interference or inconvenience to persons using the street, or
 - (b) distribution of a newspaper if the purchaser is provided with an item or advertising supplement accompanying the newspaper, and forming part of an ambush marketing campaign.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 2

Meaning of “event zone”

1. “Event zone” means any place within the shaded area on a relevant map together with any pavement on each side of any road within that area, including the airspace above or below any place within the event zone.
2. All parts of a railway station (whether on, above or under the ground) are to be treated as being within the event zone if any part of the station is on or above the ground in the event zone.
3. Where a relevant map shows any part of an event zone to be bounded by a river, the boundary is to be the mean low water spring of that river.
4. In paragraphs 1 and 3, “relevant map” means a map set out in schedule 3.

SCHEDULE 2

Regulations 5 and 8

Prohibited times

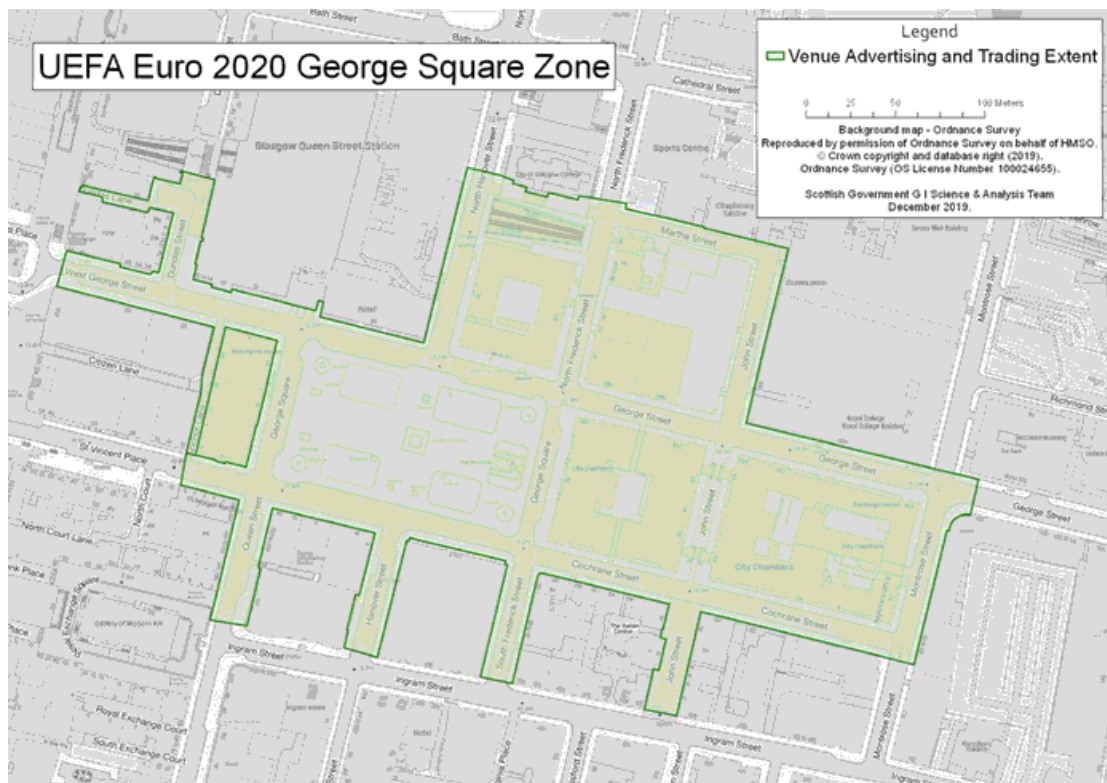
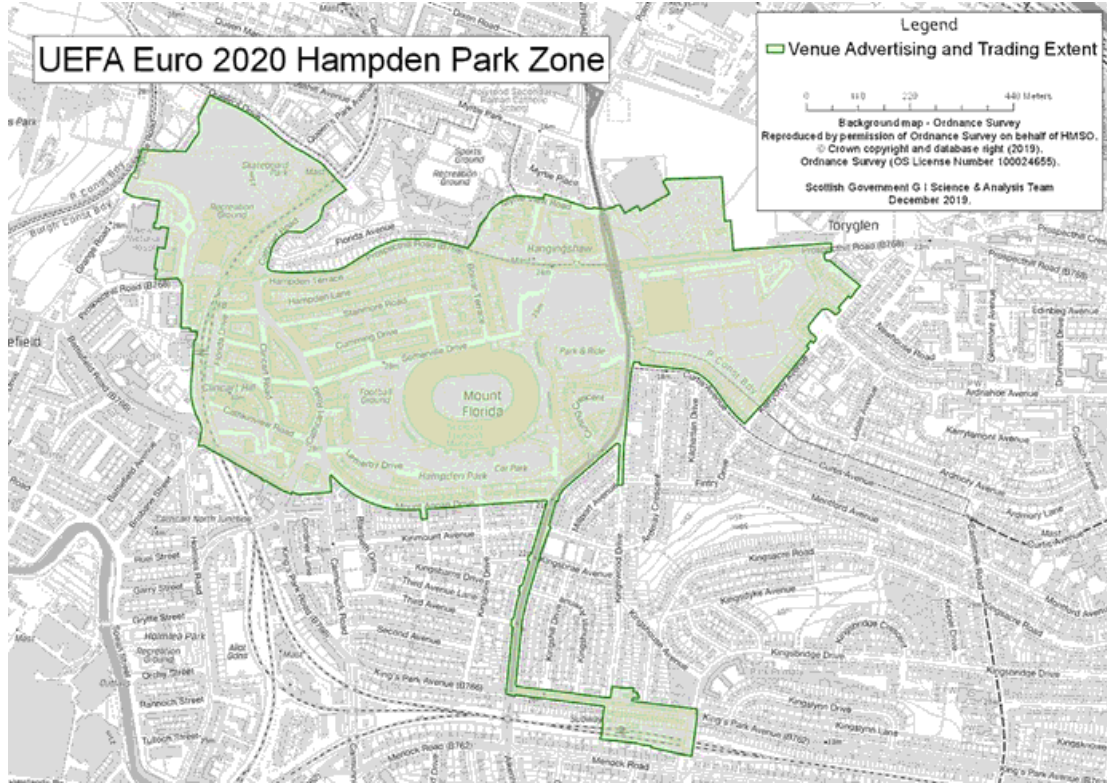
1. Hampden Park zone – 31 May 2021 to 29 June 2021.
2. George Square zone – 9 June 2021 to 11 July 2021.
3. Merchant City zone – 13, 14, 17, 18, 21, 22, 28 and 29 June 2021.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The UEFA European Championship (Trading and Advertising) (Scotland) Regulations 2020 No. 443

SCHEDULE 3

Regulation 2

Maps of Event Zones



15. Accommodation and attraction booking and reservation services.
16. Postal, parcel, cargo, freight, logistics and delivery services.
17. Insurance services.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The UEFA European Championship (Scotland) Act 2020 makes it an offence to trade (other than in a building) in an event zone at a prohibited time (“the trading offence”). It also makes it an offence to advertise in an event zone at a prohibited time (“the advertising offence”). An event zone means any one of (a) the Hampden Park zone, (b) the George Square zone, (c) the Merchant City Zone, as defined in these Regulations. Further details are included in schedule 1.

These Regulations make further provision as follows—

Part 1 provides as to introductory matters.

Part 2 prescribes activities which will be treated as trading, and exempts certain types of trading from the trading offence. In particular—

- regulation 4 specifies what is to be “trading”,
- regulation 5 provides as to prohibited times,
- regulation 6 provides exceptions.

Part 3 makes provision in relation to advertising within event zones. It exempts certain types of advertising from the advertising offence. In particular—

- regulation 8 provides as to prohibited times,
- regulations 9 to 12 provide exceptions including for demonstrations and campaigns etc., for adverts displayed on personal belongings etc., for adverts not falling within the Euro 2020 Product Categories, and for certain adverts in relation to which planning controls apply, and

Schedule 1 defines each event zone by reference to a map. The maps are set out in schedule 3.

Schedule 2 states what are the prohibited times in respect of each event zone.

Schedule 4 sets out the list of Euro 2020 Product Categories of goods or services.