

2021 No. 820

COMPENSATION

SPORTS GROUNDS AND SPORTING EVENTS

**The Birmingham Commonwealth Games (Compensation for
Enforcement Action) Regulations 2021**

Made - - - -

8th July 2021

Coming into force - -

8th August 2021

The Secretary of State, in exercise of the powers conferred by section 31(2) of, and paragraph 16(1) of Schedule 3 to, the Birmingham Commonwealth Games Act 2020^(a), makes the following Regulations.

In accordance with section 31(3) of that Act, a draft of the instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Birmingham Commonwealth Games (Compensation for Enforcement Action) Regulations 2021.

(2) They come into force on the 31st day after the day on which these Regulations are made.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

“Act” means the Birmingham Commonwealth Games Act 2020;

“claimant” has the meaning given in regulation 3(1);

“decision notice” has the meaning given in regulation 5(6);

“notice of claim” has the meaning given in regulation 3(1).

Notice of claim

3.—(1) Any person seeking to claim compensation under paragraph 15(1) of Schedule 3 to the Act from a relevant authority^(a) in respect of property damaged in the course of the exercise or purported exercise of a relevant power by an officer^(b) of the authority (“a claimant”) must send a written notice (a “notice of claim”) to the authority.

(2) The notice of claim must be received by the authority by whichever is the later of—

- (a) the end of the period of 90 days beginning with the day after the day on which the Games end;
- (b) the end of the period of 14 days beginning with the day on which the claimant received any decision notice under regulation 5(2)(a);
- (c) any date, or the end of any period, agreed by the 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, or, if the date on which the damage occurred is not known to the claimant, the date on which the damage came to the attention of the claimant,
- (c) the address (including the postcode) or location at which the damage occurred,
- (d) the amount of compensation claimed (calculated in accordance with paragraph 15(3) of Schedule 3 to the Act) and the basis upon which the compensation was calculated,
- (e) a description of—
 - (i) the property damaged,
 - (ii) the nature of the damage, and
 - (iii) the nature of any other loss that is a direct result of the damage to the property and for which compensation is claimed,
- (f) photographs, receipts, quotations or other evidence as to the matters referred to in sub-paragraphs (a)-(e), and
- (g) an explanation of the reason why the claimant considers that the exercise of the power was unlawful or any force used was unreasonable, and any evidence as to this.

Initial consideration of a claim

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

- (a) whether the enforcement activity in the course of which the claimant alleges their property was damaged was carried out by an officer of the authority,
- (b) whether in the authority’s view the claimant is entitled to compensation under paragraph 15(1) of Schedule 3 to the Act, and
- (c) the amount of any compensation that the authority considers to be payable, calculated in accordance with paragraph 15(3) of that Schedule.

(2) If the authority determines that it has not received sufficient information or evidence to decide the matters in paragraph (1), it must send the claimant, within a reasonable period, a written notice stating the further information or evidence that the authority requires.

(3) The claimant must send the authority—

(a) “Relevant authority” is defined in paragraph 1 of Schedule 3 to the Act.

(b) “Officer”, in relation to a relevant authority, is defined in paragraph 1 of Schedule 3 to the Act.

- (a) the information or evidence stated in a notice under paragraph (2), or
 - (b) if the claimant does not have the information or evidence, a written notice informing the authority of this.
- (4) The information or evidence, or the written notice, referred to in paragraph (3) must be received by the relevant authority within—
- (a) 14 days beginning with the day on which the claimant receives the notice under paragraph (2), or
 - (b) any longer period agreed by the authority in writing.
- (5) Within 7 days beginning with the latest day on which the authority receives any additional information or evidence, or any written notice, under paragraph (3), the authority must—
- (a) make the determination referred to in paragraph (1) again (and the other paragraphs of this regulation apply to that new determination), or
 - (b) if it considers that the matters in paragraph (1) cannot be decided without information or evidence which the claimant has informed the authority that they do not have, notify the claimant of this.

Authority's decision on a claim

5.—(1) If, under regulation 4, a relevant authority determines that it has received sufficient information and evidence, it must, within 28 days beginning with the day on which it made that determination or decision, decide—

- (a) the matter referred to in regulation 4(1)(a), and
- (b) if it decides that the enforcement activity in the course of which the claimant alleges their property was damaged was carried out by an officer of the authority, the matters referred to in regulation 4(1)(b) and (c).

(2) If the authority decides that the enforcement activity (in the course of which the claimant alleges their property was damaged) was not carried out by an officer of the authority, the authority must, within a reasonable period—

- (a) notify the claimant of this in writing, and
- (b) take any steps it considers reasonable to assist the claimant in identifying the appropriate relevant authority.

(3) If the authority decides that the claimant is entitled to compensation, it must, within a reasonable period—

- (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 written notice to the claimant—
 - (i) offering that lesser amount to the claimant, and
 - (ii) stating the reasons for its decision.

(4) A claimant who receives a notice under paragraph (3)(b) offering a lesser amount of compensation than that 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) If the authority decides that the claimant is not entitled to compensation, it must, within a reasonable period, send a written notice to the claimant—

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

(6) Any notification under regulation 4(5)(b), 5(2)(a), 5(3)(b), or 5(5) (a “decision notice”) must contain particulars of the claimant’s rights to—

- (a) request a review of the decision under regulation 6, and
- (b) appeal a decision on a review under regulation 7.

(7) In paragraph (2)(b), “appropriate relevant authority” means the relevant authority that appointed or authorised the officer who carried out the enforcement activity in the course of which the claimant alleges their property was damaged.

Review of a decision on a claim

6.—(1) Subject to paragraph (2), a claimant who receives a decision notice from a relevant authority may request the authority to review its decision.

(2) Paragraph (1) does not apply to a claimant who has accepted a lesser amount of compensation in accordance with regulation 5(4).

(3) A request must—

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

(4) Within 14 days beginning with the day on which the authority receives a request it must review its decision under regulation 5.

(5) Following a review under paragraph (4), the authority—

- (a) may—
 - (i) confirm the original decision, or
 - (ii) substitute a new decision for the original decision,
- (b) but may not substitute a lesser amount of compensation for any offered in the decision notice.

(6) The authority must, within a reasonable period, send a written notice to the claimant stating its decision following 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 following a review under regulation 7.

Appeal

7.—(1) A claimant dissatisfied with a decision of a relevant authority following a review under regulation 6 may appeal—

- (a) in England and Wales, to the county court;
- (b) in Northern Ireland, to the county court;
- (c) in Scotland, to the sheriff.

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

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

- (a) where permission is sought before the end of that period, that there is a good reason for the claimant to be unable to bring the appeal in time, or
- (b) where permission is sought after the end of that period, that there is a good reason for the claimant’s failure to bring the appeal in time and for any delay in applying for permission.

(4) An appeal under this regulation is by way of rehearing and the court or sheriff may make such order confirming, quashing or varying the decision as it thinks fit.

8th July 2021

Nigel Huddleston
Minister for Sport and Tourism
Department for Digital, Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Regulations)

Paragraph 15 of Schedule 3 to the Birmingham Commonwealth Games Act 2020 (“the Act”) provides that a person whose property is damaged in the course of the exercise or purported exercise of a relevant power by an officer of a relevant authority is entitled to compensation from that authority if the exercise of the power was unlawful, or any force used was unreasonable. A “relevant power” is a power conferred by Schedule 3, or a power conferred by Part 3 or 4 of Schedule 5 to the Consumer Rights Act 2015 that is exercised (or purportedly exercised) for the purpose of enforcing an offence under section 10 (ticket touting), 13 (advertising) or 16 (trading) of the Act.

These Regulations make provision to supplement the provisions in paragraph 15 of Schedule 3, including how to make a claim for compensation, the information that must be given to a person making a claim about the decision on the claim, and reviewing and appealing decisions about compensation.

Regulations 3 to 5 set out the procedure by which compensation may be obtained. Regulations 6 and 7 set out how a decision on a claim can be reviewed, and how a decision on a review can be appealed.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on private, voluntary or public sector is foreseen.

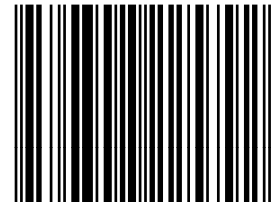
© Crown copyright 2021

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£6.90

<http://www.legislation.gov.uk/id/uksi/2021/820>

ISBN 978-0-34-822579-2



9 780348 225792