

2013 No. 160

SPORTS GROUNDS AND SPORTING EVENTS

The Glasgow Commonwealth Games (Compensation for Enforcement Action) (Scotland) Regulations 2013

<i>Made</i> - - - -	<i>21st May 2013</i>
<i>Laid before the Scottish Parliament</i>	<i>23rd May 2013</i>
<i>Coming into force</i> - -	<i>1st July 2013</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 30(2) and 43(2) of the Glasgow Commonwealth Games Act 2008(a) and all other powers enabling them to do so.

Citation, commencement and cessation

1.—(1) These Regulations may be cited as the Glasgow Commonwealth Games (Compensation for Enforcement Action) (Scotland) Regulations 2013 and come into force on 1st July 2013.

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

Interpretation

2. In these Regulations—

“the Act” means the Glasgow Commonwealth Games Act 2008;

“claimant” has the meaning given in regulation 4(1);

“decision notice” means a notice issued by a relevant authority under regulation 6(2)(b) or (3);

“notice of claim” has the meaning given in regulation 4(1); and

“relevant authority” in relation to anything done under section 22 or 24 of the Act means—

- (a) if the damage is caused by an enforcement officer or by a constable accompanying an enforcement officer, the Organising Committee; or
- (b) if the damage is caused by a constable who is not accompanying an enforcement officer, the Scottish Police Authority(b).

(a) 2008 asp 4.

(b) See the amendment of section 30(1) of the Act made by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7, paragraph 38(2).

Amount of compensation due

3. Where a person may obtain compensation under section 30(1) of the Act, the amount of compensation to which the person is entitled under that section 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

4.—(1) A person seeking to obtain compensation under section 30(1) of the Act (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—

- (a) in a case where there has been a delay of at least 14 days in the damage coming to the attention of the claimant, within 3 months of the date on which the damage occurred; or
- (b) in any other case, within 30 days of the date on which the damage occurred.

(3) The relevant authority may accept a notice sent after the applicable deadline specified in paragraph (2) and may agree with the claimant in advance of a notice being sent that it will be accepted.

(4) 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 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

5.—(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 section 30(1) of the Act; and
- (b) if the claimant is entitled, the amount of compensation due.

(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 the claimant received the notice; 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

6.—(1) If a relevant authority determines under regulation 5 that it has received sufficient information and evidence it must, within 28 days of the date of that determination, decide the matters referred to in regulation 5(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 7; and
- (b) appeal a decision on a review under regulation 8.

Review of decision on a claim

7.—(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 6.

(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 8.

Appeal to the sheriff

8.—(1) A claimant dissatisfied with the decision of the relevant authority on a review under regulation 7 may, by summary application, 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 an appeal under this regulation, the sheriff may make such order confirming, quashing or varying the decision as the sheriff thinks fit.

St Andrew's House,
Edinburgh
21st May 2013

S ROBISON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 30(1) of the Glasgow Commonwealth Games Act 2008 (“the Act”) provides that a person whose property is damaged by anything done under section 22 (general enforcement power) or 24 (power to enter and search) of the Act may obtain compensation from, depending on the circumstances, the Organising Committee or the Scottish Police Authority. This entitlement to compensation doesn’t apply if the thing done relates to a Games offence committed by the person.

These Regulations make provision about claiming compensation and determining the compensation due and they confer on the sheriff jurisdiction for determining disputed compensation.

Regulation 3 sets out the amount of compensation to which a person is entitled. Regulations 4 to 6 set out the procedure by which compensation may be obtained. Regulations 7 and 8 set out how a decision on a claim can be reviewed, and how a decision on a review can be appealed.

The Regulations cease to have effect on the same day that the Act ceases to have effect (see section 50 of the Act).