

# FOOTBALL GOVERNANCE BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Football Governance Bill as introduced in the House of Commons on 19 March 2024 (Bill 187).

- These Explanatory Notes have been prepared by the Department for Culture, Media, and Sport in order to assist the reader of the Bill. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

# Table of Contents

Subject	Page of these Notes
Overview of the Bill	9
Policy background	10
<i>Independent Fan-Led Review of Football Governance</i>	10
<i>A Sustainable Future - Reforming Club Football Governance White Paper</i>	11
<i>The Football Governance Bill</i>	12
Part 1: Purpose, Overview and Key Definitions	12
Part 2: The Independent Football Regulator	12
Part 3: Operating Licences	12
Part 4: Owners and officers of regulated clubs: suitability etc	14
Part 5: Duties on clubs and competition organisers etc	16
Part 6: Distribution of Revenue	17
Part 7: Investigatory Powers etc	17
Part 8: Enforcement	18
Part 9: Reviews and Appeals	19
Part 10: General	19
Legal background	20
Territorial extent and application	21
Commentary on provisions of Bill	22
<i>Part 1: Purpose, overview and key definitions</i>	22
Clause 1: Purpose and overview	22
Clause 2: Key definitions	22
Clause 3: Meaning of “owner” etc	23
Clause 4: Meanings of “officer” and “senior manager” etc	23
<i>Schedule 1: Meaning of “owner”</i>	24
<i>Part 1: Conditions for being an owner</i>	24
Conditions for being an owner	24
<i>Part 2: Interpretation</i>	25
Joint interests	25
Joint arrangements	25

Calculating shareholdings	25
Voting rights	25
Shares or rights held “indirectly”	26
Shares held by nominees	26
Rights treated as held by person who controls their exercise	26
Rights exercisable only in certain circumstances etc	26
Rights attached to shares held by way of security	27
Significant influence or control over the activities of a club, trust or other body	27
Part 3: Power to amend thresholds etc	27
Power to amend thresholds etc	27
<i>Part 2: The Independent Football Regulator</i>	27
<i>The Independent Football Regulator</i>	27
Clause 5: Establishment of the IFR	27
Clause 6: The IFR’s objectives	27
Clause 7: The IFR’s general duties etc	28
Clause 8: The IFR’s regulatory principles	29
Clause 9: Transfer schemes	30
<i>Reports, statements and guidance</i>	30
Clause 10: State of the game report	30
Clause 11: Football governance statement	31
Clause 12: Guidance published by the IFR	31
Clause 13: Guidance published by the Secretary of State	32
Clause 14: Annual report	32
<i>Schedule 2: The Independent Football Regulator</i>	32
Membership: the Board and the Expert Panel	32
Appointments to the Board	32
Appointments to the Expert Panel	33
Tenure and remuneration of non-executive members	33
Tenure and remuneration of Expert Panel members	33
Tenure etc and remuneration of members of the IFR’s staff (including executive members)	33
Exercise of functions by the Board	33
Committees and procedure of the Board	34
Committees and procedure of the Expert Panel	34

Disqualification from acting in relation to certain matters	34
Delegation by the Board etc	34
Appointment of observer	35
Accounts and audit	35
Seal and evidence	35
Status	35
<i>Schedule 3: Transfer schemes</i>	36
<i>Transfer schemes</i>	36
Transfer schemes	36
Supplementary	36
<i>Part 3: Operating licences</i>	36
<i>Operating licences</i>	36
Clause 15: Operating licences	36
Clause 16: Application for provisional operating licence	37
Clause 17: Grant of provisional operating licence	37
Clause 18: Grant of full operating licence	38
Clause 19: Revocation and cessation of operating licence	39
<i>Licence conditions</i>	39
Clause 20: Mandatory licence conditions	40
Clause 21: Discretionary licence conditions	40
Clause 22: Scope of powers to attach or vary discretionary licence conditions	41
Clause 23: Procedure for attaching or varying financial discretionary licence conditions	43
Clause 24: Commitments in lieu of financial discretionary licence conditions	43
Clause 25: Procedure for attaching or varying other discretionary licence conditions	45
<i>Schedule 4: Threshold requirements</i>	45
Threshold requirements	45
Financial resources	45
Non-financial resources	46
Fan engagement	47
Interpretation	47
Schedule 5: Mandatory licence conditions	47
<i>Mandatory licence conditions</i>	47
Financial plans	47

Corporate governance statement	48
Fan consultation	49
Annual declaration	49
Interpretation	49
<i>Schedule 6: Commitments in lieu of financial discretionary licence conditions</i>	49
Application of Schedule	49
Procedure for accepting a commitment or requested variation	50
Procedure for releasing a specified competition organiser from a commitment	50
Part 4: Owners and officers of regulated clubs: suitability etc	50
<i>Introductory</i>	50
Clause 26: Part 4: overview and interpretation	50
<i>Persons who become owners or officers of regulated clubs</i>	51
Clause 27: Duties to notify IFR of prospective new owner or officer	51
Clause 28: Determination of suitability required for new owner	51
Clause 29: Determination of suitability required for new officer	52
Clause 30: Becoming an owner or officer without a determination	53
Clause 31: Opportunity to make representations about proposed negative determinations	54
Clause 32: Determinations under section 28 and 29: time limits	54
<i>Determinations relating to incumbent owners and officers</i>	54
Clause 33: Duties to notify IFR of change in circumstances relating to incumbent owner or officer	54
Clause 34: Incumbent owners	55
Clause 35: Incumbent officers	55
Clause 36: Opportunity to make representations about proposed negative findings	56
<i>Further provisions about determinations</i>	56
Clause 37: Matters relevant to determinations	56
<i>Disqualification orders and enforcement</i>	57
Clause 38: Disqualification orders	57
Clause 39: Removal directions: owners	58
Clause 40: Removal directions: officers	58
Clause 41: Directions relating to unsuitable owners and officers	59
Clause 42: Orders and directions effecting alternative officers arrangements	60
Clause 43: Ownership removal orders	61
Clause 44: Orders under section 43: procedure, costs and liabilities	62

Part 5: Duties on clubs and competition organisers etc	63
<i>Duties on regulated clubs and formerly regulated clubs etc</i>	63
Clause 45: Duty not to operate a team in relation to a prohibited competition	63
Clause 46: Duty not to dispose etc of home ground without approval	64
Clause 47: Duty not to appoint administrator without approval	64
<i>Duties on regulated clubs</i>	65
Clause 48: Duty not to relocate without approval	65
Clause 49: Duties not to change crest, home shirt colours or name without approval	65
Clause 50: Duty to notify of changes in circumstances relevant to the IFR's functions	65
<i>Duties on licensed clubs</i>	66
Clause 51: Duty to publish a personnel statement	66
Clause 52: Duty to pay a levy	66
Clause 53: Section 52: consultation and publication	68
<i>Duties on specified competition organisers</i>	69
Clause 54: Duties to notify and consult the IFR	69
Part 6: Distribution of revenue	70
<i>Introduction</i>	70
Clause 55: Part 6: overview and interpretation	70
<i>Applications for resolution process to be triggered</i>	71
Clause 56: Applications for resolution process to be triggered	71
Clause 57: Applications under section 56: procedural and other requirements	72
Clause 58: Decision by the IFR on applications under section 56	72
<i>Resolution process</i>	73
Clause 59: The mediation stage	73
Clause 60: Final proposal stage	74
Clause 61: Distribution orders	74
Clause 62: Duration and revocation of distribution orders	75
<i>Miscellaneous</i>	75
Clause 63: Review of distribution orders, payment of costs, etc	75
Part 7: Investigatory powers etc	76
<i>Information gathering</i>	76
Clause 64: Power to require information	76
Clause 65: Reports on clubs by expert reporters	76

<i>Investigations into relevant infringements</i>	77
Clause 66: Meaning of “relevant infringement”	77
Clause 67: Investigations	77
Clause 68: Outcomes of investigations	78
Clause 69: Commitments in lieu of investigations	78
Clause 70 Section 69: Supplementary	79
Clause 71: Duty to preserve information	79
<b>General</b>	79
Clause 72: Privileged communications	79
Clause 73: Requirement to publish certain notices etc	80
Schedule 7: Meaning of “relevant infringement”	80
<i>Schedule 8: Investigatory powers</i>	80
Application of this Schedule	80
Power to ask questions	80
Power to enter business premises under a warrant	80
Part 8: Enforcement	81
<b>Sanctions and offences etc</b>	81
Clause 74: Sanctions	81
Clause 75: Warning notices	82
Clause 76: Decision notices	82
Clause 77: Offences	82
<i>Urgent directions</i>	83
Clause 78: Urgent directions	83
<i>Publication</i>	84
Clause 79: Requirement to publish certain notices etc	84
Schedule 9: Sanctions	84
<i>Part 1: Sanctions relating to information etc</i>	84
Introduction	84
Censure statements	84
Financial penalties	84
<i>Part 2: Sanctions relating to relevant infringements</i>	86
Censure statements	86
Appointment of a skilled person	86

Financial penalties	86
Injunctive relief	88
Suspension or revocation of operating licence	88
Part 3: Further provision about financial penalties	89
Interpretation	89
Penalties imposed by reference to a daily rate	89
Revenue and remuneration	89
Interest	90
Recovery as a civil debt	90
Power to amend figures	90
<i>Part 9: Reviews and appeals</i>	90
Clause 80: Reviewable decisions etc	90
Clause 81: Internal reviews	91
Clause 82: Decisions on internal reviews	91
Clause 83: Appeals to the Competition Appeal Tribunal	92
Clause 84: Proceedings before the Competition Appeal Tribunal	93
<i>Schedule 10: Reviews</i>	93
<i>Part 10: General</i>	94
<i>Disclosure of information</i>	94
Clause 85: Disclosure of information by the IFR	94
Clause 86: Disclosure of information to the IFR etc	94
Clause 87: Restrictions on the disclosure of information	95
Clause 88: Information offences	95
<i>Rules and regulations</i>	96
Clause 89: Rules	96
Clause 90: Regulations	97
<i>Definitions etc</i>	97
Clause 91: Minor definitions etc	97
Clause 92: Index of defined terms	97
<i>General</i>	97
Clause 93: Offences by officers of clubs and bodies corporate	97
Clause 94: Payments into the Consolidated Fund	98
Clause 95: Minor and consequential amendments	99



Clause 96: Extent	99
Clause 97: Commencement	99
Clause 98: Short title	99
<i>Schedule 11: Index of defined terms</i>	99
<i>Schedule 12: Minor and consequential amendments</i>	99
Public Records Act 1958	99
Parliamentary Commissioner Act 1967	99
House of Commons Disqualification Act 1975	99
Freedom of Information Act 2000	100
Criminal Justice and Police Act 2001	100
Enterprise Act 2002	100
Equality Act 2010	100
Competition Appeal Tribunal Rules 2015 (S.I. 2015/1648)	100
Commencement	100
Financial implications of the Bill	100
Parliamentary approval for financial costs or for charges imposed	101
Compatibility with the European Convention on Human Rights	101
Environmental Law	101
NI trade statements of divergence	101
Related documents	102
Annex A: Detailed Licensing Regime	103
Table 1: Detailed requirements on clubs	103
Figure 1: Depiction of Regulatory Requirements on Clubs under the IFR's System	106
	106
Annex B: Territorial extent and application in the United Kingdom	107

## Overview of the Bill

1. The purpose of the Football Governance Bill is to establish a new Independent Football Regulator (“the IFR”) and its regulatory regime, with the primary aim of ensuring the long-term sustainability and resilience of English football. The Bill will regulate the football clubs operating teams in competitions that the Secretary of State specifies in regulations - these clubs and competitions will represent ‘English football’ for the purposes of the Bill. The Government’s White Paper and consultation response set out that the competitions specified are intended to be the top 5 English leagues, and so the 116 clubs competing in these leagues would be within scope of the IFR’s regime - although it remains a matter at the Secretary of State’s discretion.
2. The IFR will reform the culture of governance in English football, and mitigate the risk of clubs being lost to fans and communities, with its specific objectives focused on club financial soundness, systemic financial resilience, and safeguarding the heritage of English football.
3. The Bill contains 10 parts and 12 schedules.
4. Part 1 provides an overview of the Bill and sets out key definitions, including the meaning of “owner”, “officer”, and “senior manager”.
5. Part 2 establishes the IFR as a new public body, setting out its duties, functions, and reporting processes.
6. Part 3 outlines the licensing system. This includes the difference between a provisional and full operating licence, the application and assessment requirements, and the different sorts of conditions that the IFR can or must attach to licences. A club must have a provisional or full operating licence to operate a team regulated under the Bill lawfully.
7. Part 4 explains the new, strengthened Owners’ and Directors’ (or officers) Tests. It specifies the designated process, whom they apply to, duties on incumbent and prospective owners and officers, and what happens should a person fail the IFR’s tests.
8. Part 5 concerns the various duties on clubs and competition organisers. These duties are ‘freestanding’ in that they are imposed directly by the Bill rather than by the IFR, and apply to clubs separately to licence conditions. The duties include, among others, protections against clubs joining breakaway competitions, protections for clubs’ stadiums and cultural heritage aspects, payment of a levy by clubs, and the need for competition organisers in scope to notify or consult with the IFR in specific circumstances.
9. Part 6 details the IFR’s powers of last resort to intervene in the distribution of revenue and the process that must be followed if the backstop power is triggered.
10. Part 7 sets out the IFR’s information gathering and investigatory powers.
11. Part 8 sets out the enforcement powers of the IFR, including the actions the IFR may take where it has determined that a person has failed to comply with a requirement under the Bill.

It also creates criminal offences in relation to matters such as the provision of false information.

12. Part 9 sets out the review processes which are available in respect of reviewable decisions by the IFR. This includes internal reviews conducted by the IFR and an external route of appeal to the Competition Appeal Tribunal (“the Tribunal”).
13. Part 10 sets out various general provisions, including the IFR’s powers to share information, and restrictions around this disclosure. This part also gives the IFR a power to make rules, explains key definitions, sets out the Secretary of State’s powers to make regulations and the procedure around this, and makes provision for the commencement and extent of the Bill’s effect.

## Policy background

14. The Football Governance Bill is a response to a number of key events in our national game between 2019 and 2021 which highlighted systemic issues in the English football pyramid and called into question its current self-regulatory structures.
15. The first was the collapse of Bury FC. A club founded in 1885 ceased to exist in 2019 due to financial mismanagement by its owner. This had a negative impact on the local economy and left behind a devastated fan base and community. This led to the commitment in the 2019 Conservative Party manifesto to ‘set up a fan-led review of football governance...’.
16. The next was the COVID-19 pandemic. For the first time since the Second World War, club football was brought to a complete halt, threatening the continued existence of many professional football clubs. The clubs survived due to a combination of government support and commitment from many football stakeholders, including fans, club owners, and the leagues and Football Association (“the FA”). However, the pandemic and its effects revealed the fragile nature of the finances of many clubs, as well as the structural challenges of the existing domestic football authorities.
17. Thirdly, the attempt to set up a European Super League (ESL) in April 2021. This new competition would have involved six English clubs as founding members, protected from relegation and with limited ability for others to gain access. This would have undermined the traditional structure of the English football pyramid and led to significant opposition from fans, commentators, clubs and governments. As a result, the then Secretary of State for Digital, Culture, Media and Sport (DCMS) announced the Independent Fan-Led Review of English Football (“the Review”).

## Independent Fan-Led Review of Football Governance

18. [The Review](#), chaired by Tracey Crouch CBE MP, was published on 24 November 2021. The Review found that the current self-regulatory system in English football was not fit for purpose, with clubs “often only one bad owner away from disaster”. It cited misaligned incentives, poor corporate governance, and a complicated and ineffective regulatory structure,

as the three main factors of English football's fragility.

19. The Review also made 10 strategic recommendations, including calling on the Government to:
  - a. Establish an independent regulator for English football with particular oversight on financial regulation and stronger Owners' and Directors' Tests
  - b. Create a code for football governance for football clubs in England and a commitment from the Premier League to support the pyramid through proportionate distributions, to improve the long term sustainability of the game
  - c. Account for a greater role of fans in their football clubs to reflect their position as key stakeholders and additional protections for key items of club heritage
  - d. Conduct a dedicated review of women's football
20. The Government accepted or supported all recommendations in principle in its response to the Review. This included establishing an independent regulator for English football and commissioning "[Raising the bar - reframing the opportunity in Women's football](#)" which was published on 13 July 2023.

## ***A Sustainable Future - Reforming Club Football Governance White Paper***

21. The White Paper, [A Sustainable Future - Reforming Club Football Governance](#), published in February 2023, laid out the Government's proposal for an independent regulator of English football to prevent widespread financial failures in English football and the social and economic damage they cause to communities and fans. To achieve this, it proposed that an independent regulator of English football have a tightly defined scope, with the primary purpose of ensuring the long-term financial sustainability and resilience of football clubs. Within this it would have specific primary duties focused on club sustainability, systemic sustainability, and safeguarding club heritage. It put forward that the independent regulator of English football would apply to clubs in the top 5 leagues of English football through a licensing system using a proportionate and adaptive approach recognising the variation that exists between different leagues and teams.
22. A targeted consultation of the White Paper proposals ran throughout spring and summer 2023. This included a series of panel discussions with key stakeholders on the White Paper proposals, such as the Premier League, the English Football League ("EFL"), the National League, the FA, and the Football Supporters' Association ("FSA"). In addition, written comments were invited from: all 116 football clubs in the top 5 tiers of English football, the relevant leagues and existing footballing bodies, fan groups, legal experts, industry experts, leading academics, and civil society organisations.
23. In September 2023 the Government published a [response](#) to the consultation, seeking to clarify its position and outline where consultation had informed its considerations. This reiterated the commitment to establish an independent regulator of English football as a

statutory body.

24. The following provides an overview of the proposals in the Bill. Detailed, clause-by-clause explanations of all of the Bill's measures are provided in the 'commentary on provisions' section.

## **The Football Governance Bill**

### **Part 1: Purpose, Overview and Key Definitions**

25. This Part outlines the key purpose of the Bill, to protect and promote the sustainability of English football for the benefit of fans and the local community football clubs serve. It also sets out key definitions used frequently in the Bill, including "club", "operating licence", and "English football". "English football" is defined as all regulated clubs and all specified competitions taken together, with specified competitions defined by the Secretary of State in secondary legislation. "Licensed club" means a club that holds an operating licence. Regulated clubs will be any clubs that operate a relevant team (i.e. a team that is a member of or participates in a specified competition) at a given point in time. Finally, this Part provides definitions for the meanings of "owner", "officer", and "senior manager".

### **Part 2: The Independent Football Regulator**

26. This Part establishes the IFR as a new operationally independent public body focusing on sustainability in English football and sets out its objectives. The IFR must exercise its functions in a way that is compatible with the purpose of the Bill and advances its objectives, while having regard to the desirability of avoiding effects on sporting outcomes, and the instability or competitiveness of clubs in scope. The IFR must also have regard to (i.e. take into account) its regulatory principles when exercising its functions, to govern its approach to regulation and ensure it uses its powers appropriately.
27. This Part confers power on the Secretary of State to prepare and publish a football governance statement no more than every three years on the policy the Government is pursuing in relation to the governance of domestic club football. It also includes powers for the IFR and the Secretary of State to publish guidance about the exercise of the IFR's functions, as well as the IFR publishing a 'State of the Game' report. Secretary of State guidance is intended to aid the IFR in the detailed development and implementation of its regime. IFR guidance to the industry should give clubs greater information about the specific requirements of the regime, including how the IFR will operate and what is expected of clubs, to help maximise understanding and compliance. The State of the Game report is expected to include a broad assessment of the financial health, market structure and economic issues in the industry, and of the effectiveness of regulation, which will inform the IFR's approach.

### **Part 3: Operating Licences**

28. This Part establishes a licensing regime. All clubs operating a team in specified competitions will need a licence to do so. The majority of regulation will be delivered and enforced through

the licensing regime, enabling the IFR to tailor obligations to clubs in a proportionate way. It also gives the IFR the agility to quickly react to changing circumstances, rather than requiring amendments to legislation. If a club attempts to operate without a licence, this will be met with strong sanctions from the IFR, including the ability to seek an injunction from the Tribunal against the club.

29. To aid transition, there are two types of licence: provisional and full. Clubs must apply for a provisional operating licence in the first instance, before progressing to a full operating licence provided they meet the statutory test. This system ensures clubs are incorporated into the licensing regime at the earliest opportunity, while giving the IFR time to assess the club's circumstances in depth and determine exactly what is required for the club to secure a full operating licence. The IFR can then also give the club time to meet these required standards, as appropriate.
30. When a club first applies, it is for a provisional operating licence. This allows the club to operate for a fixed period only (up to a maximum of three years initially, with possibility for the IFR to extend beyond this). To obtain a provisional operating licence clubs apply with some basic minimum information and documentation. For example, a business plan containing (amongst other things) financial information, and a personnel statement listing the club's owners, officers, and senior managers. The IFR grants a provisional operating licence if it is satisfied that the club complies or will comply with all the freestanding duties and, should it be granted a provisional operating licence, with all the mandatory licence conditions. Once a club is provisionally licensed, the mandatory licence conditions apply and the IFR may impose discretionary licence conditions. Any discretionary licence conditions attached to a provisional licence are to bring the club up to the required level of compliance with the threshold requirements by the end of the provisional period.
31. Types of regulatory requirement -
  - a. **Mandatory licence conditions** are set in legislation and apply to all licensed clubs at all times, regardless of their individual circumstances. These include submitting and updating a financial plan to the IFR, regularly consulting with persons appearing to the IFR to represent the views of the club's fans on relevant matters, submitting an annual declaration, and preparing a corporate governance statement.
  - b. **Threshold requirements** are principles set in statute, which the IFR will provide further detailed guidance on. A club might meet these threshold requirements naturally, or by complying with discretionary licence conditions (or, in the case of the 'appropriate financial resources' threshold requirement only, by complying with league commitments - see below).
  - c. **Discretionary licence conditions** are set by the IFR, are bespoke to the licensed club, and must either i) fall under one or more of the threshold requirements, or ii) be set with the aim of advancing the IFR's systemic financial resilience objective.
  - d. **Freestanding duties** are set in legislation (in Part 5) and apply outside the licensing

framework. Most of these freestanding duties will apply to regulated, and formerly regulated clubs, regardless of whether they have a licence or not. This is to prevent circumvention by bad actors willing to forsake an operating licence to carry out otherwise prohibited actions. These include not playing in competitions that have been prohibited by the IFR, to notify and seek approval from the IFR before taking certain actions related to the home ground, taking steps to establish the support of a majority of its fans before making changes to club heritage aspects including the crest, and to seek prior approval from the IFR before appointing administrators to the club.

32. Before setting any discretionary licence conditions on a club under the financial resources threshold requirement or to advance the IFR's systemic financial resilience objective, the IFR must first notify the relevant league and give them an opportunity to make a binding commitment that would resolve the issue at hand without the use of a discretionary licence condition. However, if the IFR feels the above process would risk its ability to advance one or more of its objectives, it is able to proceed directly with the discretionary licence condition without first allowing the competition organiser the opportunity to suggest an alternative commitment.
33. **Full operating licence** - at the end of the provisional period, if the IFR is satisfied that the club meets the threshold requirements and meets (and will continue to meet) the freestanding duties and mandatory licence conditions, and the IFR has not found any of the club's current owners or officers to be unsuitable, it will grant a full operating licence. If the club fails to meet this test, the provisional operating licence can be extended but the club may face sanctions. A full operating licence allows the club to operate, with no expiry date. If, at any time while a club holds a full operating licence, the IFR determines the club no longer meets a threshold requirement, it may impose discretionary licence conditions to bring the club back up to the required standard (for the financial resources threshold requirement only, the above league commitments process will first apply). A full operating licence does not need renewing, as clubs will instead be continuously monitored and supervised. There will be an annual 'touch point' where the club would submit an annual declaration, and pay its licence fee.
34. Figure 1 in Annex A depicts the different requirements on a regulated club over time and Table 1 in Annex A details the core limbs of the licensing regime (threshold requirements, mandatory and discretionary licence conditions, and freestanding duties).

## **Part 4: Owners and officers of regulated clubs: suitability etc**

35. This Part confers powers on the IFR to determine the suitability of prospective new and (under certain circumstances) existing owners and officers of regulated clubs. Schedule 1 and clause 4 define when a person is a club's "owner" or "officer", respectively.
36. This Part distinguishes between individual owners and "registered society" (as defined in clause 91) owners, with less extensive suitability requirements applying to registered society owners. Suitability requirements apply only to individual officers and not, for example, to a

company which holds a directorship at a club. But, in accordance with clause 4, an individual who controls that director company's actions may themselves be treated as an individual officer of the club.

37. The IFR will determine the suitability of all prospective new owners and all prospective new officers, in response to applications they make before becoming owners or officers of clubs. Prospective new owners' applications must include information about the operation, costs, and funding of the club. The IFR will also assess whether prospective new owners have sufficient financial resources to be a suitable owner.
38. The IFR's suitability determinations will also include assessments of owners' and officers' honesty and integrity and financial soundness. The IFR will also assess officers' competence and will consider whether owners have a source of wealth that is connected to "serious criminal conduct" (defined in clause 91).
39. Prospective new owners or officers must be assessed against all of these criteria in order to be found suitable.
40. Incumbent owners and officers will not automatically be subject to suitability determinations. Instead, the IFR only has the power to determine (or re-determine) the suitability of an incumbent individual owner or officer where it is in possession of information which provides the IFR with grounds for concern about the individual's suitability.
41. When making a determination about an incumbent owner or officer, the IFR need not assess all the above criteria. Instead, it will conduct a narrower assessment of existing owners' or officers' suitability, where the applicable criteria will depend on what gave rise to its concern. A determination about an existing owner will also not assess whether the existing owner has sufficient financial resources or require owners to submit information on the operation, costs, and/or funding of the club. This is because the ongoing financial sustainability of regulated clubs is instead addressed through financial regulation requirements elsewhere in the Bill.
42. If the IFR determines that an owner or officer is not suitable for their role at a club, this Part requires that person to cease to be an owner or officer respectively. It confers enforcement powers on the IFR to protect clubs from harm the unsuitable owner or officer might cause, and to remove them. These include:
  - a. Removal directions: The IFR may direct an unsuitable owner, and an unsuitable officer and their club to take all reasonable steps so that they are no longer an owner or officer by a specified date.
  - b. Ownership removal orders: In certain circumstances, such as when an owner fails to comply with a removal direction without a reasonable excuse, the IFR may make an order to secure that an unsuitable owner is no longer an owner by a specified date. This can include the appointment of trustees with the power to take actions on behalf of the owner.
  - c. Disqualification orders: The IFR may disqualify a person from being an owner or



officer of any regulated club for a specified period of time, up to life.

- d. Directions relating to unsuitable owners and officers: The IFR may direct an unsuitable owner, unsuitable officer or club, prohibiting an unsuitable owner or officer from carrying out specified activities and exercising specified rights, in relation to their club.
  - e. Orders and directions effecting alternative officer arrangements: The IFR may appoint an interim officer for a period of time, or may redistribute functions amongst other existing officers where, given a direction relating to an unsuitable owner or officer in effect, the IFR has concerns about a club's ability to operate effectively or comply with licence conditions.
43. To ensure the IFR's suitability regime is effective, this Part also includes duties on regulated clubs, and owners and officers of regulated clubs to notify the IFR of relevant changes in circumstances affecting the suitability of owners or officers. The Part also includes duties on clubs and persons to notify the IFR where there is a prospect of a person becoming a new owner or officer of a regulated club.

## **Part 5: Duties on clubs and competition organisers etc**

44. This Part details the various duties on licensed, regulated, and formerly regulated clubs. For regulated and formerly regulated clubs, this includes
- a. not being able to play in or be a member of a prohibited competition (as specified by the IFR);
  - b. seeking approval before selling or otherwise disposing of its home ground (or any part of it), or using the ground as security;
  - c. the steps that must be taken when it is considering appointing an administrator.
45. The duties on regulated clubs include:
- a. seeking approval before relocating the team to another home ground;
  - b. the process to follow when looking to change the team's crest, predominant home shirt colours or name;
  - c. to notify the IFR if there has been any material change in circumstances affecting the club relevant to the IFR.
46. The duties on licensed clubs include a duty to i) submit a personnel statement listing the clubs' owners, officers and ultimate owner to the IFR for approval, and ii) to pay a levy charged by the IFR. This Part also confers power on the IFR to charge the levy and determine the methodology underpinning it. In doing so, the IFR must take into account clubs' financial resources, with a view to ensuring affordability and proportionality based on a club's circumstances. There are limits to its fee raising powers - the IFR's budgets will be approved annually by HM Treasury and the Secretary of State, and it will have a duty to consult with

regulated clubs ahead of setting charging levels. The Government is initially funding the set-up of the IFR but once the licensing regime is fully operational it will be industry funded with clubs paying to maintain their licence status. The money the Government spent will subsequently be recouped through the levy.

47. This Part also outlines the duties of specified competition organisers to notify the IFR where a club has breached a specified competition rule or where an organiser expects to breach or breaches a commitment accepted by the IFR, or before an organiser takes any action against a regulated club for a breach or suspected breach of a specified competition rule and to consult the IFR before changing specified competition rules.

## **Part 6: Distribution of Revenue**

48. This Part grants the IFR targeted backstop powers to intervene in financial distributions between leagues if necessary. The backstop mechanism ('resolution process') can only be used in the context of the distribution of relevant revenues received by a relevant league (referred to in the Bill as a 'specified competition organiser').
49. In order to apply to trigger the process, a relevant league would need to show that one of the following four conditions had been met: i) there is no distributions agreement in place between the relevant leagues ii) there has been a material reduction in the relevant revenues received by a relevant league, iii) there has been a material change in circumstances affecting the relevant revenue, iv) a specified amount of time has passed since the last agreement was entered into. After this, the process can only be triggered if the IFR has reasonable grounds to suspect that its ability to deliver its objectives (e.g. around financial sustainability and resilience) would be jeopardised if the process was not triggered.
50. In practice, the backstop process on financial distributions would go through the following stages: the relevant leagues can apply to the IFR to trigger the process and one of the conditions above must be met, in addition to the criteria to be applied by the IFR. If the thresholds are met, the IFR would initiate the mechanism and set the terms and scope of the resolution process. Once the process is triggered, the parties would move to a period of mediation and, if no agreement is reached, the parties move to the final-proposal stage.
51. In the final proposal stage the IFR would form a committee from its panel of independent experts. This committee would have an opportunity to set out the parameters of the proposals and the issues they expected them to address; both parties would make a final "blind" proposal; and then the panel would choose the most appropriate offer and set out its reasoning. Following this, the committee would make a legally enforceable order requiring the parties to comply with its decision.

## **Part 7: Investigatory Powers etc**

52. This Part (i) gives the IFR powers to gather information to help it carry out its statutory functions and (ii) sets out which infringements under the Bill can be investigated and the powers the IFR has to investigate them.

53. The information-gathering powers take two forms. The first allows the IFR to request information from any individual or body, provided that information is necessary for the exercise of the IFR's functions. The second enables the IFR to appoint an expert reporter to prepare a report on a regulated club on any matter necessary for the exercise of the IFR's functions. The expert reporter is able to require information from clubs and clubs are required to assist the expert reporter in preparing their report, including providing information, access to business premises, equipment and services.
54. The breaches of the requirements in the Bill that can be investigated and enforced against are called "relevant infringements" and are set out in Schedule 7. The investigatory powers that are available to the IFR to investigate relevant infringements, beyond the standard information gathering powers to request information and appoint an expert reporter, are set out in Schedule 8. Broadly, these are a power to interview any person to obtain information relevant to an investigation, and a power to enter premises under warrant for the same purpose.
55. This Part also outlines the ability of the IFR to accept a commitment from a person being investigated, instead of carrying out an investigation. Commitments could include the person taking or ceasing certain actions. If the IFR considers the person's compliance with the commitment will mean it no longer needs to investigate, it may accept the commitment and close its investigation. The commitment will then be enforceable against the person making the commitment.

## **Part 8: Enforcement**

56. This Part, together with Schedule 9, sets out the enforcement actions that the IFR may take where it determines that any individual or body has (i) failed to comply with a requirement to provide information (an "information requirement"), (ii) committed an offence relating to information under clause 88 the Bill (the "information offences"), or (iii) has committed a "relevant infringement".
57. Civil sanctions are available in respect of breaches of the information requirements or for information offences. The sanctions available are set out in Part 1 of Schedule 9 and comprise censure statements and financial penalties. For information offences, there is also the option of criminal prosecution (although civil and criminal sanctions may not both be pursued in relation to the same offence).
58. Civil sanctions are also available in respect of relevant infringements, set out in Schedule 7. The available sanctions are set out in Part 2 of Schedule 9 and are: censure statements, the appointment of a skilled person to assist a club in bringing the infringement to an end, financial penalties, seeking injunctive relief and, in extreme cases, the suspension or revocation of a club's operating licence. Not all these sanctions are available to the IFR in all circumstances - the conditions and procedures for applying the various sanctions in response to relevant infringements are included in Part 2 of Schedule 9.
59. Before the IFR takes enforcement action, it must give the person concerned a warning notice,

inviting the person to make representations within a set period. Following this, the IFR must determine whether to take action and give the person concerned a decision notice.

60. The Part also confers powers on the IFR to issue an “urgent direction” requiring a person who has committed a relevant infringement to take or cease an action that the IFR considers will bring the relevant infringement to an end. The IFR may only issue an urgent direction where the infringement is ongoing and jeopardises its ability to advance one or more of its objectives. The IFR may seek injunctive relief from the Tribunal where an urgent direction is not complied with.
61. Schedule 2 allows for the IFR to delegate its functions, and this Part sets out that decisions to issue a censure statement, impose a financial penalty, or appoint a skilled person to a club to bring a relevant infringement to an end, are exercisable by a committee of the Expert Panel. The Expert Panel will be appointed by the Chief Executive Officer (“CEO”) of the IFR and consist of individuals with a range of appropriate skills, knowledge, and experience to make decisions of technical judgement. Certain more significant enforcement decisions (e.g. the decision to suspend or revoke an operating licence) may not be delegated to the Expert Panel, but rather only to a committee of the IFR’s Board.

## **Part 9: Reviews and Appeals**

62. Part 9 and Schedule 10 set out the decisions of the IFR that may be reviewed (the “reviewable decisions”) and the processes for doing so. Any person that the IFR considers is directly affected by a reviewable decision will have the ability to seek an internal review of the decision. There will also be a statutory route for any person with sufficient interest (as determined by the Tribunal) to bring an appeal to the Tribunal.
63. In an internal review, the IFR’s first decision is reviewed again by the IFR. Schedule 10 sets out who will review which type of reviewable decision (“the applicable reviewer”). In most cases, the applicable reviewer is a committee of the IFR’s Expert Panel, but in a few cases it is the Board of the IFR. The applicable reviewer will review the decision and may uphold, amend, or reverse it.
64. The majority of the IFR’s decisions are appealable to the Tribunal. In most cases, an appeal may not be brought unless there has been an internal review conducted first. However, for the most punitive and potentially contentious decisions (which are listed in clause 83 in the Bill) an appeal to the Tribunal may be brought without a prior internal review. When a decision is appealed to a tribunal, only those most punitive and potentially contentious decisions will be reviewed on their merits; all other decisions will be reviewed on judicial review principles.

## **Part 10: General**

65. Part 10 contains miscellaneous and general provisions including, amongst other things: the disclosure of information, rule and regulation making provisions, consequential provision, definitions, and commencement.

66. On the disclosure of information, the Part enables the IFR to disclose information to the public and private bodies listed for certain purposes. Under its ancillary powers, the IFR may also receive information from those and other bodies. Certain restrictions are placed on the powers and duties in the Bill to disclose or publish information, including that disclosure or publication may not breach data protection legislation or prejudice the prevention or detection of crime.
67. On rules and regulations, this Part sets out that the IFR may make rules for the purposes of the Bill, the form that any rules it makes must take and the process under which they must be made, amended, replaced, or revoked. The Part also makes provision for the Secretary of State's powers to make regulations throughout the Bill, including that regulations are to be made by statutory instrument and where this must be done by the affirmative parliamentary procedure.
68. The Part also:
  - a. Lists minor definitions used in the Bill, and references an index of terms that are defined at various points throughout the Bill in Schedule 11.
  - b. Sets out that officers of a club may be found liable for offences under the Bill committed by the club if they were neglectful or the offence was committed with their consent or connivance.
  - c. Sets out the requirement on the IFR to pay financial penalties received, and interest on late levy payments and financial penalties, less its litigation costs, to the Secretary of State for payment into the Consolidated Fund. The deduction of litigation costs is subject to direction by the Secretary of State.
  - d. References minor and consequential amendments made to other Acts for the purposes of this Bill, which are set out in Schedule 12.
  - e. Sets out provisions for the extent, commencement and short title of the Bill.

## Legal background

69. The Bill consists of 10 Parts and sets up a new regulator and licensing structure, to provide a new statutory framework for the football industry, which was previously not regulated by statutory provisions. The English football landscape has traditionally been the subject of informal regulation through the internal rules of the FA and related bodies, including in relation to international competitions. Therefore the new regime and the distributions provisions in particular are unique and unprecedented as they put in place a statutory regime where there previously was not a legislative framework. The new provisions also establish to some extent a co-regulatory framework with existing leagues, formalising this through legislation.
70. As mentioned above here is a back-stop power for the IFR to determine disputes between two specified competition organisers relating to the distribution of relevant revenue, being

primarily broadcasting revenue. The powers set out a resolution process comprising a mediation and final order stage, and are not deemed to constitute an arbitration scheme for the purposes of the Arbitration Act 1996.

71. We note that the FIFA and UEFA internal rules prohibit undue interventions or interferences in the working of member associations that can compromise their independence. The Bill has been drafted with this in mind, and the FA has been provided with a consultation role in some respects and a Board observer role to ensure that it has the opportunity to be engaged on relevant decisions of the IFR.

## Territorial extent and application

72. Clause 96 sets out the territorial extent of the Bill. That is, the jurisdictions in the UK of which the Bill forms part of the law; application applies to where the Bill has practical effect. The Bill extends and applies to England and Wales only. The Bill applies to clubs playing in competitions specified by the Secretary of State, and therefore falling within the definition of English football. This may include Welsh clubs with teams playing in these specified competitions.
73. Sport is not a reserved matter under Schedule 7A of the Government of Wales Act 2006, and so is devolved as it relates to Wales. Where a provision relates primarily to football rather than a reserved matter or a restricted matter under the Government of Wales Act 2006, the provision is within the legislative competence of the Senedd Cymru. Some provisions of the Bill may have multiple purposes, some of which may relate to reserved matters, but where the primary purpose relates to sport the provision would still be considered as relating to a devolved matter.
74. Under the terms of the Sewel Convention, the UK Parliament will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. In line with the Sewel Convention, the UK Government will seek the legislative consent of the Senedd Cymru for the provisions that fall under their legislative competence.
75. Where an amendment is made by the Bill, the amendment has the same extent as the provision being amended. If there are amendments relating to matters within the legislative competence of the Senedd Cymru, their consent will be sought for those amendments.
76. See the table in Annex B for a summary of the position regarding territorial extent and application in the UK.
77. Consequential powers at clause 95 enable the Secretary of State to make provision by regulations in consequence of the Bill that amend, repeal, or revoke any enactment, including Measures or Acts of Senedd Cymru.

# Commentary on provisions of Bill

## Part 1: Purpose, overview and key definitions

### Clause 1: Purpose and overview

78. This clause sets out the purpose of the Bill, which is the overarching aim of the Bill and what it is seeking to deliver: to protect and promote the sustainability of English football.
79. Sustainability here refers to the ability of English football to continue to serve the interests of fans and benefit the local communities that clubs serve.
- a. A continuation of service in the interests of fans means continuing to operate a team in domestic and international club competitions, in a way that i) represents the unique heritage of the club as recognised by its fans, and ii) respects the interests of these fans.
  - b. Benefiting the local community means the club continues to have a positive impact on economic and social factors that contribute to the welfare of the local community. For example, this might include direct or indirect positive effects on: the income of local businesses, the happiness of individuals in the community, cultural enrichment, or the reputation of the local area.
80. Though not defined in the Bill, a club's fans refer to the individuals who follow and identify with the club, engage with the service the club provides, and have an interest in seeing the club succeed. For example, this includes (where applicable): members of any Community Benefit Society formed for the benefit of the club's fans and registered with the Financial Conduct Authority (usually named Supporters Trusts), season ticket holders of the club, and any fans who regularly attend matches played by the club's first team.
81. Though not defined in the Bill, the local community that a football club serves refers to the persons (e.g. individuals, businesses, public organisations) who live, work or trade in the geographic area associated with a football club, and are therefore impacted by the club's existence and activities. For example, the community could include but is not limited to: locally residing fans of the club, non-fan residents who still identify with the club, employees dependent on the club, businesses that indirectly benefit from the club's presence in the local area, or local emergency services who serve the club. Whereas some stakeholders, like sponsors and suppliers, can be anywhere in the world, the local community's interest in the club stems from sharing a geographic location with it. For example, this location might be a neighbourhood, borough, town or city, and varies by club.

### Clause 2: Key definitions

82. This clause defines several key terms that are fundamental to the Bill and give the regulatory regime effect.
83. The Secretary of State will specify the competitions in scope of the new regime, in regulations



(“specified competitions”). Regulated clubs will be any clubs that operate a relevant team (i.e. a team that is a member of or participates in a specified competition) at a given point in time. “Licensed club” means a club that holds an operating licence. For the purposes of the Bill, “English football” then collectively describes all specified competitions and all regulated clubs.

84. In the context of a football club, a club “operates” a team if it is responsible for the team’s entry into, membership of, or participation in a competition.

### Clause 3: Meaning of “owner” etc

85. Subsection (1) defines the “owner” of a club by reference to Schedule 1 of the Bill.
86. Subsection (2) defines an “ultimate owner” of a club. A club’s ultimate owner is the owner who has the highest degree of influence or control over the activities of the club. If the club has only one owner or if there is one owner with more influence or control than any other, then that person will be the club’s sole ultimate owner. Or a club may have multiple ultimate owners who each have the same degree of influence or control.

### Clause 4: Meanings of “officer” and “senior manager” etc

87. This clause defines an “officer” and a “senior manager” of a club for the purposes of the Bill. Subsection (1) makes clear that a person is an officer of a club if the person is a senior manager of the club.
88. In any other case, the table in subsection (1) outlines who an officer of a club is where a club is either a company, a body corporate (i.e. a legal body that is incorporated under law) other than a company, a partnership or an unincorporated body other than a partnership.
89. Subsection (2) outlines the other instances in which a person is also an officer of a club. For example, if they hold themselves as being an officer of a club, claim to be an officer of a club or act as if they are an officer of a club. Also, if a person (A) instructs, guides or directs an officer (B) to act, and B customarily acts in line with A’s instruction or guidance, A is also an officer of the club.
90. Subsection (3) makes clear that certain persons are not to be regarded as an officer of the club. This includes persons who are giving professional advice (for example, an accountant giving an officer of a club advice in a professional capacity) and UK Government Ministers.
91. Subsections (4) and (5) define a “senior manager” and “senior management functions”. A senior management function is a function which involves i) being responsible for managing one or more aspects of a club’s affairs (for example, by taking decisions, or participating in the taking of decisions, about how the club’s affairs should be carried out), and ii) those aspects of the club’s affairs involving a serious risk of consequences for the club. For example, this could include a Chief Financial Officer who has responsibility for managing the club’s finances.
92. The IFR will specify certain senior management functions relevant to its regulatory regime in its rules. Clubs will be required to set out which persons carry out these specified senior



management functions in the personnel statement (per clause 16 subsection (3)). A senior manager of a club is a person who carries out a specified senior management function at that club.

93. Senior managers will be accountable for the aspects of the club's affairs that they are responsible for. The IFR may take enforcement action against a senior manager if the club commits a relevant infringement that is connected to a senior management function carried out by that senior manager.

## **Schedule 1: Meaning of "owner"**

94. Schedule 1 specifies when a person is an "owner" of a club for the purposes of the Bill. Part 1 of the Schedule lists the conditions for being an owner; Part 2 gives more detail on how to interpret the Schedule; Part 3 gives the Secretary of State a power to amend the Schedule by regulations.

### **Part 1: Conditions for being an owner**

#### Conditions for being an owner

95. Paragraph 1 provides that only an individual (i.e. a natural person, not a company or another type of legal person) or a "registered society" can be an owner of a club for the purposes of the Bill.
96. A "registered society" is defined by clause 91 as a registered society as defined by section 1 of the Co-operative and Community Benefit Societies Act 2014. Registered societies can be vehicles for collective fan ownership of clubs.
97. Paragraph 1(1) provides that, if an individual or registered society meets at least one of the conditions listed in paragraph 2 of the Schedule in relation to a particular club, then that individual or registered society is an "owner" of the club.
98. In some cases, a registered society may directly operate a football team (as opposed to forming part of the ownership chain of another entity that actually operates the team). That means the club itself is a registered society. Paragraph 1(2) provides that such a registered society club is the "owner" of itself, as long as there is no individual to whom paragraph 1 sub-paragraph (1) applies.
99. Clubs which are incorporated as, or wholly owned by, collectively fan-owned registered societies will thus typically have no individual "owner" for the purposes of the Bill.
100. Paragraph 2 lists the conditions which can make an individual or registered society an owner under paragraph 1 sub-paragraph (1).
101. References to "significant influence or control" should be read in conjunction with any guidance published in accordance with paragraph 15 of this Schedule.
102. References to shares or rights held "indirectly" should be read in conjunction with paragraph

9 of this Schedule.

103. Condition 5 provides for a person to be the owner of a club indirectly via a trust, partnership, or another body that is not a legal person. If the trustees, partners, or members of the body meet one of the other four conditions in relation to a club, and a person has significant influence or control over the trust, partnership, etc, then that person is an owner of the club. This means that an owner cannot avoid being identified as an owner simply by, for example, placing her 30% shares in a club into a trust. The test that will be applied is whether she has the right to exercise, or actually exercises, significant influence or control over the activities of that trust (for example, will the trustees vote the shares however she instructs them).

## **Part 2: Interpretation**

### **Joint interests**

104. Paragraph 4 deals with rights or shares held jointly by two or more persons. For example, in the case of a partnership, the partners may hold the shares jointly. In the case of shares held in trust, the trustees will hold the shares jointly.

105. In such cases, each person is treated for the purpose of this Schedule as if they held all of the shares or rights individually. For example, if individuals A and B have a joint interest in 26% of the shares in club Y, each of them will be an owner of Y by virtue of each holding 26% of Y's shares.

### **Joint arrangements**

106. Paragraph 5 provides for cases where multiple shareholders or rights-holders have made an arrangement between them to exercise all or substantially their rights jointly, in a predetermined way. In such cases, each person is treated for the purpose of this Schedule as individually holding the combined shares or rights of all of the parties to the joint arrangement. For example, if individuals A and B each hold 20% of shares in club Y and have made a joint arrangement, each of them will be an owner of Y by virtue of holding 40% of Y's shares.

107. Sub-paragraph 3 cross-refers to Paragraph 12 of this Schedule, which defines an "arrangement".

### **Calculating shareholdings**

108. Paragraph 6 sets out how to calculate shareholdings, including where a club does not have a share capital. All shares issued by the club, as set out in the club's statement of capital, are to be factored into the calculation. If a club does not have a share capital, rights to share in the club's capital or profits can be considered equivalent to shares. For example, if club Y is a partnership in which individuals A, B and C are the (equal) partners, then A, B and C will each be an owner of Y by virtue of holding 33.3% of Y's shares.

### **Voting rights**

109. Many bodies, including certain clubs, have general meetings at which matters are decided by the exercise of voting rights. Paragraph 7 sets out how to calculate voting rights, including where a club or other body does not have general meetings at which matters are decided by voting.

110. Paragraph 8 provides that, for the purposes of this Schedule, voting rights held by the entity itself are to be disregarded. For example: if entity Y has issued 110 voting shares, individual A holds 26 of those shares and Y holds 10 as treasury shares, A will be an owner of Y by virtue of holding 26% of the voting rights in Y.

### Shares or rights held “indirectly”

111. Paragraph 9 sets out when a person holds a share or right “indirectly”. A person can indirectly own shares or rights in a club through a vertical “chain” of other legal persons, each of which controls a majority stake in the person immediately below, with the person at the bottom of the chain directly holding the shares or rights in the club. For example, individual A holds 51% of the voting shares in company B, company B holds 51% of the voting shares in company C, and company C holds 26% of the shares in club Y, then A is an owner of Y by virtue of indirectly holding 26% of Y’s shares.

112. Sub-paragraph (3) defines a “majority stake”. A majority stake in a legal person (B) allows the holder of that stake (A) to exert control over B. A can then, for example, control the way in which B exercises its voting rights in a club. Where the club’s shares or rights are held through a chain, this “majority stake” level of control is needed at each point in the chain in order for A’s control to reach down the chain to the club. Ultimately, A is able to control the rights or shares in the club.

### Shares held by nominees

113. Paragraph 10 deals with shares held by nominees on behalf of others.

### Rights treated as held by person who controls their exercise

114. Sometimes rights, for example voting rights, are legally held by one person but controlled and exercised by another. Paragraph 11 provides for the case where one person notionally holds a right but a different person controls its exercise. In such a case, the right is treated as being held by the controller, not the notional holder. Sub-paragraph (2) sets out when a person “controls” a right.

### Rights exercisable only in certain circumstances etc

115. Some rights may only be exercisable in certain circumstances. Paragraph 13(1) provides that, for the purposes of this Schedule, such rights are only to be taken into account when their exercise is within the rights-holder’s control (because the circumstances which allow their exercise are ongoing, or because the rights-holder can control the circumstances).

116. Sub-paragraph (2) exempts rights that are exercisable by administrators or creditors during

insolvency proceedings from being taken into account for the purposes of this Schedule. Such rights might otherwise have fallen within sub-paragraph (1) during insolvency proceedings.

117. Sub-paragraph (4) ensures that rights that are normally exercisable, but are temporarily unavailable to be exercised for some reason, are still to be regarded as exercisable for the purposes of Schedule 1.

### Rights attached to shares held by way of security

118. Paragraph 14 deals with rights attached to shares held as security (for example, for a loan). For the purposes of this Schedule and subject to the conditions in this paragraph, those rights are to be treated as held by the person who provided the shares as security. This means that, in a typical case, if a shareholder (A) has borrowed against the value of their shares, signing over their shares to a creditor as collateral, then A (and not A's creditor) will still be treated as holding the rights attached to those shares.

### Significant influence or control over the activities of a club, trust or other body

119. Paragraph 15 requires the Secretary of State to prepare and publish guidance on the meaning of "significant influence or control" for purposes of this Schedule. Regard must be had to this guidance when interpreting that phrase, which is used in two of the conditions for being an owner in paragraph 2.

120. The guidance is subject to the parliamentary procedure set out in sub-paragraphs (3) - (8).

## Part 3: Power to amend thresholds etc

### Power to amend thresholds etc

121. Part 3, (sub-paragraphs (1) and (2)) of Schedule 1 gives the Secretary of State the power to make regulations amending this Schedule for specified permitted purposes.

## Part 2: The Independent Football Regulator

### The Independent Football Regulator

#### Clause 5: Establishment of the IFR

122. Clause 5 establishes a body corporate called the Independent Football Regulator. Throughout the Bill and the explanatory notes it will be referred to as the IFR.

#### Clause 6: The IFR's objectives

123. This clause sets out the IFR's objectives. As per clause 7, the IFR can only act if, so far as reasonably practicable, it is in the advancement of one or more of these objectives.

124. Subsection (a) is the IFR's individual club-focused financial objective. "Financial soundness" is a measure of a club's expected ability to continue meeting its liabilities and debts in the future, even in the face of changing circumstances (or "shocks"). The higher the probability it

would be able to continue (or lower the risk it would not), the more financially sound the club. This involves an assessment of a wide range of factors relating to a club's long-term financial sustainability and resilience. This objective requires the IFR to "protect and promote" the financial soundness of clubs. This means, in the advancement of this objective, it should aim to reduce the risk that any club within its scope is unable to meet its debts and liabilities when they fall due. However, it is not obliged to prevent, at any cost, any club from entering administration or being liquidated. This means it is not obliged to guarantee zero failures.

125. Subsection (b) is the IFR's macro-focused systemic financial objective. In the advancement of this objective, the IFR will identify, monitor and if necessary take action to mitigate systemic risks in order to protect the aggregate financial sustainability and resilience of English football. These risks might not threaten any one club significantly, but their potential aggregated, correlated, and/or multiplied effects may pose a significant risk to large parts of the football system or the pyramid as a whole. Equally, there may be structural issues in the industry with implications for all clubs. For example, how broadcast revenue is distributed throughout the football pyramid, or a common dependency among clubs on certain sources of income or credit.

126. Subsection (c) is the IFR's non-financial objective, aimed at safeguarding the heritage of English football. Heritage in this context refers to the tangible and intangible elements that define the unique historical identity of English football and its clubs, and which are passed on through generations of fans. A football club's identity is an expression of the club's defining characteristics, its relationship with its fans and the local community, and its cultural and social significance. "Safeguarding" involves a protection of these elements from undue harm but not standing in the way of natural growth, renewal, reinterpretation or innovation that is respectful of the club's heritage, its fans, and the local community it serves.

127. These three objectives, in conjunction, are fundamental to the overarching concept of sustainability as per the purpose of the Bill in clause 1. This is because a continuation of service in the interests of fans and the local community relies as much on the safeguarding of a club's heritage, as on the club's ongoing financial viability.

## Clause 7: The IFR's general duties etc

128. This clause establishes the IFR's general duties.

129. Subsection (1) requires that any action the IFR takes must be, so far as reasonably practicable, compatible with the purpose of the Bill (per clause 1) and be in the advancement of one or more of the IFR's objectives (per clause 6).

130. Subsection (2) requires the IFR to have regard to three secondary outcomes. These are not outcomes for the IFR to pursue, but outcomes to have regard to when exercising its functions. This acknowledges that there are important outcomes in football in addition to sustainability. While actively aiming to influence these outcomes is not the responsibility of the IFR, the IFR should have regard to the desirability of not adversely affecting these outcomes through the course of regulation.

131. Subsection (2)(a) guides the IFR to, so far as possible, avoid any indirect impact its actions may have on sporting competitiveness. This includes any impacts on the relative sporting outcomes of different regulated clubs. (2)(b) guides the IFR to, so far as possible, avoid any negative impact its actions may have on the competitiveness of regulated clubs against non-regulated clubs. This includes against clubs based outside England and Wales. (2)(c) guides the IFR to, as far as possible, avoid any negative impact its actions may have on investment into English football. Naturally, some impacts on these three aspects will be unavoidable during the course of regulation. However, the duty in this section will steer the IFR to avoid this where possible and, where not possible, to choose the course of action that minimises any such impacts while still achieving the intended outcome.

132. The provisions in subsection (3) require the IFR to have regard to five additional things during the course of regulating. Where appropriate, the IFR must also take these things into consideration when acting, but it is not obliged to adhere strictly to them at all times - this helps to maintain the operational independence of the IFR.

133. Subsection (4) explicitly requires the IFR to monitor whether persons are complying with regulatory requirements imposed on them by the Bill, or imposed on them by the IFR by virtue of the Bill.

## Clause 8: The IFR's regulatory principles

134. This clause sets out fundamental operating principles to define the IFR's approach to regulation. The IFR is required to have regard to these principles, per clause 7, when exercising its functions. These principles will guide the IFR to exercise its functions appropriately and in the manner intended by Parliament.

- a. The first principle encourages the IFR to be both time- and cost-efficient in everything that it does. Although the Bill imposes specific deadlines in some places, this principle will encourage expedience even where there are no set statutory timelines. The principle will also instil an emphasis on value for money.
- b. The second principle encourages the IFR to take a participative approach to regulation, where possible, by coordinating and cooperating with clubs, individuals at clubs, and competition organisers. This reflects that a model where all parties are aligned and working towards the same outcomes, is often the least burdensome and most effective way to deliver regulation. This principle encourages the industry to reform and take action itself, but will not deter the IFR from intervening boldly when necessary.
- c. The third principle encourages the IFR to be proportionate in everything it does. This means the IFR should consider the circumstances and potential impacts of an action, choose the least restrictive option that still delivers the intended outcome, and be able to justify why any restriction imposed by that option (e.g. on a club or individual) is reasonable. Broadly, this means the marginal benefit of an action should outweigh the marginal cost.

- d. The fourth principle encourages the IFR to acknowledge the unique sporting context within which it is regulating, and the football-specific constraints clubs are subject to (e.g. the rules they must comply with by virtue of their membership of certain competitions). In so far as is possible, it should aim to minimise any potential disruption to sporting competitions, overlapping requirements, or related burdens on clubs. For example, by acknowledging that making significant changes at a club in the middle of a football season might be more difficult, and recognising the unique constraints that transfer windows and player contracts might place on a club. Under this principle, the IFR should also consider the overall burden on clubs and individuals at clubs, taking into account the existing industry processes and rules they must engage with in addition to the IFR's regime.
- e. The fifth principle encourages the IFR to apply regulation consistently, while still ensuring requirements are appropriately tailored to a club's specific circumstances. Consistency here does not mean every club should face the same regulatory requirements, but rather that equivalent regulation should apply in response to equivalent circumstances.
- f. The sixth principle encourages the IFR to, where appropriate, hold the individuals responsible for making decisions at a club accountable for the actions of the club and its compliance with regulatory requirements.
- g. The seventh and final principle encourages the IFR to be as transparent as possible with everything it does. Although some information will be sensitive and should remain private, this principle conveys the importance that the IFR provides appropriate information on regulatory decisions, and is open and accessible to the regulated population and the general public.

## Clause 9: Transfer schemes

135. This clause explains that Schedule 3 confers power on the Secretary of State to make schemes to transfer property, rights, liabilities, and staff from DCMS to the IFR.

## **Reports, statements and guidance**

### Clause 10: State of the game report

136. Subsection (1) of this clause requires the IFR to publish a 'state of the game' report and sets out what this report must or could contain, as well as setting out how regularly the IFR must publish it.

137. The report will include a broad assessment of the financial health, effectiveness of regulation, market structure, and economic issues in the industry and whether any feature of the industry is jeopardising, or risks jeopardising, the IFR's ability to advance its objectives, including its systemic objective as per subsection (2). This report allows the IFR to better understand the market and individual clubs, as well as allowing the IFR to better design the details of its



regulatory system. It may also include an assessment of areas relevant to the IFR's scope, which could include areas such as:

- a. the distribution of revenues across the industry;
- b. fan engagement and club heritage;
- c. corporate governance;
- d. owners and officers;
- e. financial regulation;
- f. and any other matters that may be relevant.

138. Subsection 5 states that, prior to gathering the information for the report, the IFR must publish a notice that it is going to undertake the study and the policy intention would be that the IFR would outline the scope of what it will cover, in particular if there are any areas of specific focus. The notice should also set out any time period for the receipt of suggestions about issues or other matters to be covered in the report. The IFR would then have to have regard to any suggestions made within that time period.

139. Subsection 3 details the report should be updated and published at least every three years. Subsection 4 clarifies the first report should be published no later than three years after the Bill comes into force, but can be sooner and the three year cycle will run from the publication date of that first report.

### Clause 11: Football governance statement

140. Subsection (1) makes provision for the Secretary of State to issue a statement on issues related to football, where related to the IFR's remit. The statement is non-binding but the IFR will have regard to it when exercising its functions.

141. Subsection (3) sets out that the Secretary of State is allowed to update and make changes to the statement provided it is not at odds with the purpose of the Bill or the objectives of the IFR as per (subsection (2)).

142. Subsection (5-6) sets out that the football governance statement must be published and laid before Parliament by the Secretary of State.

### Clause 12: Guidance published by the IFR

143. Subsections (1) and (3) set out that the IFR must publish guidance about the exercise of its functions under specific sections of the Bill (Sections 21 to 25), and may publish guidance about any other aspects of its regulatory regime as it considers appropriate. The intention of this guidance should be to translate the powers and duties set out in the Bill into a detailed, cohesive and practical explanation of the IFR's regime, to support industry understanding and compliance.

144. Subsection (2) sets out that, where the IFR publishes guidance about the exercise of its



functions under Sections 21 to 25 (discretionary licence conditions), this guidance must include the outcomes the IFR is aiming to achieve.

145. Subsection (5) states that the IFR must consult any persons it considers appropriate before publishing the first guidance about any of its functions and any revised guidance about its functions.

### Clause 13: Guidance published by the Secretary of State

146. This clause permits the Secretary of State to prepare and publish guidance on the IFR's exercise of its functions under the regulatory regime, for the benefit of the IFR.

147. It also sets out the position regarding revisions to the guidance. This includes that revisions may not be made more frequently than every three years except if the revision is a result of an amendment, repeal or modification of the Bill, or the revision is pre-agreed between the Secretary of State and the IFR. The Secretary of State must consult both the IFR and anyone they consider appropriate before publishing or revising any guidance under this section, and must lay it before Parliament.

### Clause 14: Annual report

148. Subsection (1) makes provision for the IFR to publish an annual report at the end of each financial year.

149. Subsection (2) sets out what the IFR must include in its annual report and makes provision for the Secretary of State to direct the contents of the report, where they see this might be required.

150. Subsection (3) sets out that the annual report must be laid before Parliament by the Secretary of State.

151. Subsection (4) describes what financial year means in this section.

## **Schedule 2: The Independent Football Regulator**

### Membership: the Board and the Expert Panel

152. Paragraphs 1-3 makes provision for the membership of the IFR. The membership includes the Board (chair, non-executive and executive members) and the Expert Panel.

153. Sub-paragraph 3(3) makes provision for the Secretary of State to amend the numbers of the Expert Panel.

### Appointments to the Board

154. Paragraph 4 makes provision for the appointment of the chair and non-executive members of the Board.

155. Paragraph 5 makes provision for the appointment of the deputy chair, and how that function should be carried out.

156.Paragraph 6 makes provision for the appointment of the CEO and other executive members of the Board.

157.Paragraph 7 sets out the rules on which someone may be appointed to the Board, in relation to conflicts of interest.

### Appointments to the Expert Panel

158.Paragraph 8 makes provision for the CEO to appoint an Expert Panel. This paragraph sets out the types of skills the panel members should possess, and the rules of appointment in relation to conflicts of interest.

### Tenure and remuneration of non-executive members

159.Paragraphs 9 - 11 makes provision for the length of term of non-executive members, and the grounds for their possible removal. This section also makes provision for the chair and non-executive Directors (NEDs) to receive remuneration, expenses and allowances which will be determined by the Secretary of State.

### Tenure and remuneration of Expert Panel members

160.Paragraph 12 sets out that the terms of the Expert Panel membership will be determined by their terms of employment. This includes the scenarios where the CEO would have grounds to remove a panel member from position. This also makes provision for the panel members to receive remuneration, expenses and allowances which will be determined by the CEO.

### Tenure etc and remuneration of members of the IFR's staff (including executive members)

161.Paragraph 13 Makes provision for the Board to appoint staff to the IFR and make any other staffing arrangements such as secondments. The Board will be able to delegate this function to its CEO or other members of staff within the IFR.

162.Paragraph 14 sets out that the non-executive members will determine whether members of staff of the IFR will continue to be recognised as employees of the IFR or any other staffing arrangements. It also makes provision for remuneration, allowances, pensions and gratuities where appropriate, to be determined by the non-executive members of the Board.

163.Paragraph 15 sets out the scenarios where an executive member can resign from post, how they can cease to be a member and the grounds to which an executive member can be removed from post.

### Exercise of functions by the Board

164.Paragraph 16 sets out that all functions of the IFR will be exercised by the Board (and delegated where and how appropriate) unless specifically stated otherwise:

- a. Clause 60 (final proposal stage of distributions)

- b. Clause 74 (sanctions)
- c. Clause 81 (internal reviews)
- d. Paragraphs 23 to 26 (delegation by the Board etc)

## Committees and procedure of the Board

- 165.Paragraph 17 makes provision for the Board to establish committees and subcommittees using only its members.
- 166.Paragraph 18 makes provision for the Board to decide its own procedures and procedures of its committee and subcommittees. It makes provision for the Chair to determine the legal minimum number of attendees at meetings, known as the quorum. It also makes provision for the Chair to remove a person from a committee and decide the procedure in the situations where a person ceases to be a member of a committee or sub-committee of the Board and can determine the validity of decisions already taken in these circumstances.

## Committees and procedure of the Expert Panel

- 167.Paragraph 19 makes provision for the CEO to establish an independent Expert Panel and sets out the skills, experience and knowledge required of the Panel members.
- 168.Sub-paragraphs (2) - (5) makes provision for the CEO to constitute committees of the Expert Panel where directed to do so by the Bill. It sets out that the committees should be made up by a minimum of three Expert Panel members, and the CEO must appoint the Chair of the committee.
- 169.Paragraph 20 makes provision for the Expert Panel to determine its own internal procedures and the procedures of its committees.
- 170.Sub-paragraphs (2) - (5)set out the procedures for someone who wishes to resign from the Expert Panel or committee of the Panel and the circumstances in which the CEO can remove a member of the Expert Panel or committee of the Panel. This also sets out the procedure in the situations where a person ceases to be a member of a Expert Panel or committee of the Panel - the CEO can determine the validity of decisions already taken in these circumstances.
- 171.Paragraph 21 makes provision for the Expert Panel to act independently of the IFR but also makes provision for information sharing between the Panel and IFR.

## Disqualification from acting in relation to certain matters

- 172.Paragraph 22 sets out the process to be applied when a member of the Board, committee of the Board or Expert Panel has a direct or indirect conflict of interest in a matter which is being discussed in a meeting or committee of the Board or Expert Panel.

## Delegation by the Board etc

- 173.Paragraph 23 makes provision for the Board to be able to delegate its functions and set the terms of those functions. It also makes provision for a committee of the Board to delegate its

functions and set the terms.

174.Paragraph 24 sets out that a committee of the Board can delegate its functions to:

- a. a member of that committee or
- b. a sub-committee which the committee has established.

175.Paragraph 25 sets out the functions which can only be delegated by the Board, only to a committee of the Board. This paragraph also sets out that the committee to whom the function is delegated, must not delegate any further. The functions which can be delegated to Board committees are:

- a. Revoking a provisional operating licence (clause 19)
- b. Making a determination of the suitability of a person (Part 4)
- c. Making a disqualification order (clause 36)
- d. Specifying a competition as a prohibited competition (clause 42)
- e. Suspending or revoking an operational licence (paragraph 9 of Schedule 9)
- f. Carrying out a review (clause 80) of any decision made during the exercise of the functions listed above (a-f)

176.Paragraph 26 sets out that the IFR or committee can continue to exercise its functions even if those functions have been delegated to other members or sub-committees.

### Appointment of observer

177.Paragraph 27 makes provision for the Secretary of State to appoint an Independent observer to the Board from the FA.

### Accounts and audit

178.Paragraph 29 makes provision for the IFR to keep proper records and accounts, and to prepare a statement of annual accounts each year. It sets out that the Secretary of State can direct the content and form of the statement and the statement must be sent to the Comptroller and Auditor General to examine and certify. This paragraph also makes provision for all statements and audit reports to be laid before Parliament by the Secretary of State.

### Seal and evidence

179.Paragraph 30 makes provision for the authentication of the IFR's seal and the presumption of the authenticity of documents.

### Status

180.Paragraph 31 sets out the status and capacity of the IFR, which is not to be regarded as a

servant or agent of the Crown (this includes its members and staff), or as enjoying any status, immunity or privilege of the Crown. The IFR's property is not to be regarded as property of, or property held on behalf of, the Crown.

## **Schedule 3: Transfer schemes**

### **Transfer schemes**

#### Transfer schemes

181. This clause confers power on the Secretary of State to make schemes to transfer property, rights, liabilities, and staff from DCMS to the IFR. Such schemes may be made in connection with the establishment of the IFR or the transfer of functions from DCMS to the IFR.

#### Supplementary

182. The supplementary section lists the types of provision that may be made in a property transfer scheme or a staff transfer scheme.

183. Subsection (4) to the supplementary information states a staff transfer scheme may make provision which is the same as or similar to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

## **Part 3: Operating licences**

### **Operating licences**

#### Clause 15: Operating licences

184. Subsection (1) states that a club may not operate a relevant team (a team that is a member of or participates in a specified competition as per clause 2 subsection(1)) in a competition specified by the Secretary of State in secondary legislation ("specified competition" as per clause 2 subsection (1)) unless it holds either a provisional operating licence or a full operating licence.

185. Subsections (2), (3) and (4)] establish the IFR's power to issue provisional and full operating licences to regulated clubs (defined as clubs operating a relevant team in a specified competition in clause 2 subsection (1)). When a club first applies, it will be for a provisional operating licence - this will authorise the club to operate a team in a specified competition for a fixed period only, up to three years, before any extensions that may be granted. By contrast, a full operating licence authorises a club to operate a team in a specified competition with no expiry date.

186. Subsection (5) sets out some minimum requirements for the contents of an operating licence. This includes any discretionary and mandatory licence conditions attached to the licence. Mandatory licence conditions are the regulatory requirements in Schedule 5 of the Bill. They are applied to all licensed clubs (as per clause 2 "licensed club" means a club that holds an

operating licence) and set the baseline for all clubs in terms of financial planning, fan consultation, and general reporting to the IFR. The ability to comply with them forms part of the test for granting a provisional operating licence. Discretionary licence conditions are set by the IFR, are bespoke to the licensed club, and are applied if necessary to bring the club up to the required level of compliance with one or more threshold requirements (which are in Schedule 4 of the Bill). The threshold requirements are the principles in Schedule 4 of the Bill that relate to financial resources, non-financial resources and fan engagement. A club will be held to the relevant standard for these areas and, if they meet this standard, the club will be granted a full operating licence. A club might meet this standard naturally (i.e. by already operating at the required level), or by complying with discretionary licence conditions set by the IFR (or, in the case of the 'appropriate financial resources' threshold requirement only, by complying with a commitment in lieu of a discretionary licence condition). The threshold requirements are explained further in Schedule 4.

187. Subsection (6) permits the IFR to specify in rules additional information in an operating licence, beyond the minimum content requirements stipulated in Subsection (5).

### Clause 16: Application for provisional operating licence

188. Subsection (1) permits any club to apply for a provisional operating licence. This extends beyond only regulated clubs, so that clubs expecting to be promoted into a specified competition (i.e. promoted into scope of regulation) can apply pre-emptively.

189. Subsection (2) requires that the IFR must determine the appropriate timings for, format of, and method of submitting an application and specify these in its rules.

190. Subsections (3) to (6) sets out some necessary contents required in an application, and gives the IFR discretion to require additional information or documentation. The necessary content includes: i) a personnel statement, which provides details of the club's owners, officers, and senior managers, and ii) a strategic business plan, which provides at a minimum an indication of the club's operations and associated financial information for the period up to the end of the next full football season (see clause 91 subsection (1) for definition of "football season").

### Clause 17: Grant of provisional operating licence

191. Subsections (1) and (2) requires the IFR to grant a club a provisional operating licence only if it is satisfied that the club:

- a. will comply with the freestanding duties on clubs in Part 4 of the Bill;
- b. will comply with the mandatory licence conditions set out in Schedule 5;
- c. will operate a relevant team.

192. These three elements comprise the test for granting a provisional operating licence. The mandatory licence conditions are explained in Schedule 5.

193. Subsection (3) sets out that the maximum initial length of a provisional operating licence is

three years. The IFR may set this period shorter than this and, in the event a provisional operating licence is extended (per clause 18), the total duration of a provisional operating licence can ultimately exceed three years.

194. Subsection (4) requires the IFR to, if it decides not to grant a provisional licence, to give the club an opportunity to make representations to them, rather than immediately refusing to grant the licence. This is effectively a chance for the club to rectify the relevant issues.

195. Subsection (7) sets out that the IFR does not have the power to grant a provisional licence unless it is fully satisfied that the club is complying with all elements of the test in subsection (2).

196. Subsection (8) sets out that a club cannot be granted a provisional operating licence until the day on which the club operates a relevant team in a specified competition. So while a club can apply for a licence preemptively (per clause 16), it cannot be licenced until it is a regulated club.

197. Subsection (9) sets out that the IFR must specify in its rules the various timelines associated with determination of a provisional operating licence.

## Clause 18: Grant of full operating licence

198. Subsection (1) requires the IFR to assess a provisionally licensed club for a full operating licence in advance of the expiry date of the provisional operating licence.

199. Subsections (2) and (3) require that, following this assessment, the IFR must grant the club a full operating licence only if:

- a. it is satisfied that -
  - i. the club is operating a relevant team;
  - ii. the club meets the threshold requirements (in Schedule 4 of the Bill);
  - iii. the club complies and will continue to comply with the freestanding duties (in Part 5 of the Bill), and the mandatory licence conditions (in Schedule 5 of the Bill); and
- b. it has not made a determination that any of the club's owners or officers are unsuitable (as per Part 4 of the Bill).

These four elements comprise the test for granting a full operating licence. The threshold requirements are the principles in Schedule 4 of the Bill, which fully licensed clubs must meet. A club might meet these threshold requirements naturally (i.e. by already operating at the required level), or by complying with discretionary licence conditions set by the IFR (or, in the case of the 'appropriate financial resources' threshold requirement only, by complying with a commitment in lieu of a discretionary licence condition). The threshold requirements are explained further in Schedule 4.

200. Subsections (4) and (5) require the IFR to give a club that fails the relevant test for a full operating licence notification of this failure, and an opportunity to make representations to the IFR about the proposed refusal and to rectify any issues, rather than immediately refusing to grant the licence.
201. Subsection (6) then requires the IFR, if it is satisfied the club meets the test for a full operating licence, to grant the club a full licence, or where it considers that the club would meet the test for the full operating licence if given more time, to extend the provisional licence. The last resort alternative to this is to revoke the provisional operating licence (provided for in clause 19).
202. Where the IFR extends the provisional operating licence, subsection (7) sets out that this extension should only be for such a period as the IFR considers necessary for the club to meet the test for being granted a full operating licence (as per subsection 2).
203. Subsection (8) sets out that the IFR may not grant a club a full operating licence unless the club meets all the relevant tests for a full licence in subsection 2.
204. Subsection (9) sets out the IFR must specify the date when the full operating licence comes into force and the provisional operating licence falls away.

## Clause 19: Revocation and cessation of operating licence

205. Subsections (1) and (2) set out the conditions under which the IFR may revoke a club's provisional operating licence. This action is regarded as a last resort from the IFR and may occur if i) a club persistently, and without reasonable excuse, fails to meet the relevant test outlined in clause 18 for granting a full operating licence; and ii) where the IFR considers there is no reasonable prospect of the club meeting the test for a full licence even if the IFR extends the provisional licence to give the club more time to do so.
206. Subsection (3) sets out that, when the IFR revokes a club's provisional licence under this section, it must give the club notice stating the date the licence will be revoked and the reasons for revocation.
207. Subsection (4) sets out that the date given in the notice on which the revocation of a club's licence takes effect, may not be until the end of the current football season. This is to avoid any impact on the sporting integrity of competitions mid-season.
208. Subsection (5) references Schedule 9, where the IFR also has sanction powers to revoke a club's operating licence (both provisional or full) that are separate and in addition to the power in this section.
209. Subsection (6) sets out that a licence ceases to have an effect if the club no longer operates a relevant team. The most likely scenario for this is if a club has been relegated out of the scope of the specified competitions.

## Licence conditions



## Clause 20: Mandatory licence conditions

210. This clause requires the IFR to attach four mandatory licence conditions to the operating licence (both provisional and full) of each club. This means all licensed clubs will need to comply with these requirements, which are set out in Schedule 5. The mandatory licence conditions cover:

- a. a requirement for the club to submit a financial plan annually or at more frequent intervals if specified by the IFR;
- b. a requirement for the club to submit and publish a corporate governance statement at specified intervals explaining how the club is applying the IFR's corporate governance code of practice;
- c. a requirement for the club to regularly consult with the fans of the club on relevant matters and;
- d. submit an annual declaration containing a description of any material changes in circumstances affecting the club over the past year.

## Clause 21: Discretionary licence conditions

211. This clause sets out the IFR's powers to attach, amend, and remove discretionary licence conditions. Discretionary licence conditions are conditions that the IFR may attach to a club's licence in order to:

- a. bring the club towards meeting a threshold requirement;
- b. or mitigate systemic financial risks to advance the IFR's systemic financial resilience objective.

212. Subsection (2) sets out that a discretionary licence condition may only be attached to an operating licence if the IFR considers that compliance with the condition will:

- a. ensure, or contribute to, a club with a provisional operating licence meeting one or more of the threshold requirements before the end of the provisional operating licence period;
- b. ensure, or contribute to, a club with a full operating licence meeting, or continuing to meet, one or more threshold requirements;
- c. advance the IFR's systemic financial resilience objective.

This means a discretionary licence condition must always relate to one or more of the threshold requirements, unless it is attached to protect or promote the systemic financial resilience of English football.

The threshold requirements are set out in Schedule 4 of the Bill and are:

- a. the financial resources threshold requirement;

- b. the non-financial resources threshold requirement;
- c. the fan engagement threshold requirement.

213. Subsection (3) sets out that the IFR can vary a discretionary licence condition if any of the relevant circumstances in Subsection 2 will be met. In order to change an existing condition, it must also be either no longer effective, or there must have been a material change in circumstances affecting the club since the condition was attached, or previously varied. The circumstances affecting a club can encompass a broad range of factors related to the internal nature and behaviour of the business, and the external context in which it operates - this includes the club's compliance with regulatory requirements.

214. Subsection 4 sets out that the IFR's powers to attach or vary discretionary licence conditions are subject to the parameters and procedural requirements which are set out in clauses 22 and 23.

215. Subsection (5) obliges the IFR to remove discretionary licence conditions that are no longer necessary. This might be because the condition is no longer effective, because an alternative condition is/would be more appropriate, or because the club already meets or will be able to meet the threshold requirement without needing to comply with the condition.

## Clause 22: Scope of powers to attach or vary discretionary licence conditions

216. Clause 22 limits the matters that discretionary licence conditions may address when attached in relation to the financial and non-financial resources threshold requirements as well as the IFR's systemic financial resilience objective.

217. Subsection (1) sets out that a discretionary licence condition relating to the financial resources threshold requirement may only relate to: debt management, liquidity requirements, overall cost reduction, or restrict illicit finance (funding that the IFR reasonably suspects is connected to serious criminal conduct).

- a. Controls around debt management may, for example, relate to the overall amount of debt a club can incur or the cost of such debt. It could include controls around the terms and conditions of debt obligations.
- b. Liquidity requirements may, for example, require a club to hold cash in a segregated account or for owners to make commitments around the injection of cash backed by personal or corporate guarantees.
- c. A cost reduction requirement may, for example, require a club to reduce its cost base over a period set by the IFR in the condition. The IFR can not require a club to reduce its costs in a specific area, but could set an overall level of cost reduction required. It would be for the club to determine how, and in which areas, to reduce costs to achieve the required reduction.
- d. Conditions to restrict illicit finance could, for example, include a restriction on a club receiving equity injections or commercial income from a specified source.

The regulator cannot attach discretionary licence conditions under the financial resources threshold requirement that do not relate to an area listed in this subsection.

218. Subsection (2) sets out that a discretionary licence condition relating to the non-financial resources threshold requirement may only relate to: internal financial controls, risk management, or financial reporting.

- a. Internal financial controls are the processes that ensure the completeness and accuracy of a club's financial records, reporting, and information.
- b. Risk management includes processes to identify, monitor and report risks a club is exposed to and the establishment and maintenance of adequate risk management policies and procedures - this would, for example, include the club's contingency or 'wind back' plans.
- c. Financial reporting is the process related to the preparation and publication of a club's internal and external financial reports - this may include, for example, requiring clubs to file public accounts on time.

The IFR cannot attach discretionary licence conditions under the non-financial resources threshold requirement that do not relate to an area listed in this subsection. So, for example, the IFR would not be able to attach a condition requiring a club to make specific corporate governance arrangements.

219. Subsection (3) sets out that a discretionary licence condition that is attached or varied to advance the IFR's systemic financial resilience objective may only relate to: debt management, liquidity requirements, or overall cost reduction. For the purpose of advancing the IFR's systemic financial resilience objective, the IFR may impose the same discretionary licence conditions on a club, or multiple clubs. For example, the IFR might attach a condition to a club's operating licence to advance the systemic financial resilience objective where it considered that the action of the club, taken alone or in concert with other clubs, was creating financial risk for English football as a whole. For example, debt levels and interclub related debt were at such levels that default at one club might cause a domino effect of defaults across a large number of clubs.

220. Subsections (4)-(7) enable the Secretary of State to make regulations amending the areas that discretionary licence conditions may relate to when attached under the financial or non-financial resources requirements, subject to certain procedural safeguards. These safeguards include that

- a. the Secretary of State may only make regulations in response to a request to do so from the IFR which explains why doing so is compatible with the purposes of the Bill;
- b. the IFR must consult all persons it considers appropriate before submitting such a request to the Secretary of State.
- c. Regulations made under this power are subject to the affirmative parliamentary

procedure: see clause 90.

### Clause 23: Procedure for attaching or varying financial discretionary licence conditions

221. Clause 23 covers the procedure around attaching or varying financial discretionary licence conditions, which can be attached or varied to ensure compliance with the financial resources threshold requirement or to advance the IFR's systemic financial resilience objective.
222. Subsection (2) sets out who the IFR must notify before attaching or varying a financial discretionary licence condition. Subsection (3)(a) and (b) set out that the IFR must give full details of the proposed condition or variation, alongside an explanation as to why it is proposing it.
223. Subsection (3)(c) and (d) provide for the club and relevant specified competition organiser to have the opportunity to make representations to the IFR about the proposed financial discretionary licence condition or variation, and for the specified competition organiser to propose a commitment instead. In this section a commitment is a requirement to take action proposed by a specified competition organiser as an alternative to a financial discretionary licence condition or variation proposed by the IFR, in order to address a particular issue. For example, the competition organiser might propose to introduce a rule or restriction on the club as part of its own competition rules as a commitment. Under subsection (5) the IFR must then have regard to any representations duly made by a specified competition organiser or club about a proposed condition or variation, and must consider whether to accept any proposed commitment as an alternative.
224. Subsection (4) details the minimum period in which the relevant club may make representations regarding the proposed financial discretionary licence condition or variation, and in which the relevant specified competition organiser may make representations or suggest a commitment as an alternative.
225. Subsection (6) sets out that the IFR does not have to go through the process of notifying the relevant club and competition organiser and inviting representations and commitments if either a club applies for a variation of a discretionary licence condition, or the IFR believes that complying with that process would jeopardise or risk jeopardising its ability to advance one or more of its objectives. In this instance, the IFR would not be required to consider a competition organiser's representations or commitments and so would be able to react more swiftly. For example, this might be the case if a club was in clear financial difficulties and any delay in imposing the necessary financial discretionary licence condition would threaten the financial sustainability of the club.

### Clause 24: Commitments in lieu of financial discretionary licence conditions

226. This clause sets out further detail as to how a commitment (see clause 23) proposed by a specified competition organiser operates within the regulatory framework.

227. Subsection (2) allows the IFR to accept a commitment from a specified competition organiser if the IFR considers that:
- a. the commitment will achieve the same outcome as the proposed financial discretionary licence condition or variation such that the IFR does not need to attach the discretionary licence condition or make the variation; and
  - b. accepting the commitment does not jeopardise, or risk jeopardising the ability of the IFR to advance one or more of its objectives.
228. Subsection (3) sets out that when a commitment is proposed by a specified competition organiser and accepted by the IFR, the IFR may not then attach the original proposed financial discretionary licence condition or make the original proposed variation, while the commitment is in place. The specified competition organiser must comply with the commitment at all times when it is in force.
229. Subsection (4) sets out that where the IFR does not accept a commitment from a specified competition organiser, the IFR must notify both the specified competition organiser and the club concerned of its decision. The IFR must explain how it reached that decision. If the IFR does not accept the proposed commitment it can then attach the original proposed financial discretionary licence condition or the original proposed variation without additional notification requirements applying.
230. Subsection (5) sets out that the competition organiser can propose a variation to an existing commitment in force. The IFR may accept the variation as long as it still complies with the requirements under Subsection (2) for the IFR to be able to accept a commitment (including that the IFR considers that the varied commitment will achieve the same outcome as the original proposed discretionary licence condition or original proposed variation). This allows the competition organiser to react and adapt the commitment to any changes (e.g. in the club's circumstances).
231. Subsection (6) outlines the circumstances where the IFR may release the specified competition organiser from a commitment.
232. Subsection (7)(a) and (b) set out that, if the competition organiser fails to comply with the commitment, or if the IFR considers that the commitment is not proving effective, the IFR is able to step in and either attach the original proposed financial discretionary licence condition or original proposed variation, or attach an alternative financial discretionary licence condition or make an alternative variation. Per subsection (8), the IFR may attach the original proposed condition or make the original proposed variation without further notice, but if attaching an alternative condition or making an alternative variation the IFR must first invite representations from the club (but not from the competition organiser).
233. Subsection (10) outlines that a commitment comes into effect on the date detailed in the notice provided by the IFR see paragraph 3 of Schedule 6 and ceases to have effect when the specified competition organiser is released by the IFR from the commitment.

234. Subsection 11 allows the IFR to exercise its investigatory and enforcement functions in terms of any failure or possible failure to comply with a commitment even if the commitment ceases to exist.

235. Subsection (12) sets out where a commitment is in force, the IFR must monitor

- a. whether the specified competition organiser is complying with the commitment;
- b. whether the IFR should release the specified competition organiser from the commitment (which includes whether to attach or vary a financial discretionary licence condition instead);
- c. whether the IFR should take enforcement action against the specified competition organiser if they are not complying with a commitment.

## Clause 25: Procedure for attaching or varying other discretionary licence conditions

236. This clause sets out the procedure the IFR must follow to attach or vary a discretionary licence condition that relates to any threshold requirement other than the financial resources threshold requirement.

237. Subsection (2)(a), (b) and (c) require that the IFR must notify the club in question of the proposed condition or variation to a condition, and provide the club with an opportunity to make representations. The IFR must take these representations into consideration before making its final decision on attaching or varying the condition.

238. Under subsection (4)(a) however, if the club has itself applied for a variation under clause 21 subsection (6), the IFR is not required to follow this procedure.

239. The IFR also does not have to follow this procedure if it considers that doing so would jeopardise, or risk jeopardising its ability to advance one or more of its objectives as per subsection (4)(b). For instance, if the IFR has clear evidence that the financial soundness of a club is being significantly undermined by a lack of action from the club, it has the power to attach the proposed discretionary licence condition without allowing 14 days for the club to make representations. The threshold within subsection (4)(b) is used in various places in the Bill, to capture rare issues of sufficient seriousness and/or urgency to justify the normal procedure being superseded.

## Schedule 4: Threshold requirements

### Threshold requirements

240. Schedule 4 introduces and sets out the three threshold requirements.

### Financial resources

241. Paragraph 2(1) of Schedule 4 explains the financial resources threshold requirement. It sets out that this threshold requirement is met if the financial resources of a club are appropriate in relation to the club's activities and planned activities. In essence, this requires a club to have

the suitable quantity, quality and availability of financial means to support its long term sustainability as a football club. For example, this might include capital, provisions against liabilities, and holdings of (or access to) cash and other liquid assets.

242. Paragraph 2(2) sets out a non-exhaustive list of factors the IFR may take into consideration when assessing whether a club has appropriate financial resources. So, when considering if a club meets this threshold requirement, the IFR might consider whether its financial resources are in line with the club's business model, plans and forecasts, how the club's corporate structure or internal governance might help protect its financial resources and reduce financial risks, and the financial environment the club operates in. The IFR is not constrained by the list and may take into account any relevant matters, such as any other circumstances affecting the club, when determining whether a club meets the financial resources threshold requirement. While the IFR will take these various factors into consideration when assessing whether a club has appropriate financial resources, the IFR can only impose discretionary licence conditions regarding financial resources in a limited number of areas (see clause 22).

### Non-financial resources

243. Paragraph 3(1) explains the non-financial resources threshold requirement. It sets out that this threshold requirement is met if the non-financial resources of a club are appropriate in relation to the club's activities and planned activities. In essence this requires a club to have the suitable quantity, quality and availability of non-financial means to support its long term sustainability as a football club. Non-financial resources include internal control systems, plans and policies that a club maintains. Internal control systems may relate to the identification and management of financial or other risks, financial reporting, accounting, and compliance with laws and regulations. In addition, non-financial resources can include any information that a club holds and the human resources that the club has available.

244. Paragraph 3(2) sets out a non-exhaustive list of factors the IFR may take into consideration when assessing whether a club has appropriate non-financial resources. This includes the corporate structure of the club and, if the club is part of a group of companies, the corporate structure of the group. In addition, the IFR may take into consideration the competence of the club's owners and officers, the club's reporting against the corporate governance code, and the competitions the club plays in, as well as the financial resources the clubs has. The IFR is not constrained by the list and may take into account any relevant matters, such as any other circumstances affecting the club, when determining whether a club meets the non-financial resources threshold requirement. While the IFR will take these various factors into consideration when assessing whether a club has appropriate non-financial resources, the IFR can only impose discretionary licence conditions regarding non-financial resources in a limited number of areas (see clause 22 subsection (4)).

245. The club's financial resources are also listed as a factor in paragraph 3(2). Likewise, non-financial resources are listed as a factor in paragraph 2(2) that may be taken into account by the IFR when considering the appropriateness of financial resources. This reflects that a club's financial and non-financial resources should be appropriately balanced in relation to one

another.

## Fan engagement

246.Paragraph 4, sub-paragraph (1) sets out that the fan engagement threshold requirement is met if the club has an adequate approach to consulting its fans about the relevant matters and takes the views of its fans into account when making decisions about the relevant matters. Clubs are expected to implement appropriate processes and structures to facilitate discussions with their fans, and have due regard to the views expressed within those. Clubs will not, however, be bound by the views of fans. The range of fan engagement measures each club utilises will differ between clubs and the IFR will be expected to recognise these natural variations, but fans should have input into their club’s approach in relation to the relevant matters.

247.Paragraph 4, sub-paragraph(2) sets out the relevant matters which clubs must consult their fans on.

248.Paragraph 4, sub-paragraph (3) explains what matters relating to club heritage include.

## Interpretation

249.Paragraph 5 sets out the meaning of an undertaking, a group, and a subsidiary for the purposes of this Schedule.

# Schedule 5: Mandatory licence conditions

## *Mandatory licence conditions*

### Financial plans

250.This mandatory licence condition (paragraph 2) requires a club to submit a financial plan (by a date set by the IFR in the licence) and adhere to that plan. Clubs will need to update the plan at times determined by the IFR in their operating licence, which will be at a minimum at least once a year. Clubs must also update their financial plan if there is a material change in circumstances. Where a plan has been updated, it is the latest financial plan that the club needs to adhere to.

251. The financial plan is one of the tools the IFR uses to learn about a club and it must contain all the information that the IFR considers necessary to carry out its functions under the Bill.

252.The condition sets out a non-exhaustive list (paragraph 3) of the information that a club must include in its financial plan. This includes financial risk assessments and plans for managing financial risks. This will require clubs to ‘stress test’ their forecasts on income and expenditure against different scenarios - some of which will be devised by the club whereas others may be provided by the IFR. Clubs will also need to set out contingency or ‘windback’ plans to demonstrate how they will manage adverse events (such as relegation) in order to mitigate their detrimental financial impact on the club. The condition also allows the IFR to specify



further information that must be included in the plan. It may do this on a blanket basis or it can tailor the information required for different clubs or groups of clubs.

253. The IFR will use the financial plan to evaluate the financial risk profile of a club and to determine what, if any, discretionary licence conditions should be attached to the club's operating licence to mitigate the club's financial risks and/or any shortcomings in its contingency planning. This would be with a view to assisting the club in complying with, or continuing to comply with, the financial resources threshold requirement.

## Corporate governance statement

254. Paragraph 7 specifies that the IFR must prepare and publish a code of practice about corporate governance arrangements at regulated football clubs ("the code"). It also sets out the definition of 'corporate governance' for the purposes of the Bill: the nature, constitution or function of different parts ('organs') of the club; the manner in which those parts conduct themselves; the requirements imposed upon them; and the relationship between them. This code must be published after consultation with the FA and any representative of persons that are likely to be affected by it. The IFR must keep the code under review and may make alterations to it, for instance as the industry changes, as clubs' corporate governance structures mature, or as best practice in corporate governance evolves (again this would be in consultation with the FA and representatives of persons affected).

255. The clubs, in turn, will be required under this mandatory licence condition, as set out in paragraphs 4 - 5, to produce a corporate governance statement and submit this to the IFR at intervals it specifies. The statement must provide detail on how the club applies the code to its corporate governance processes and arrangements.

256. A club must also, under paragraph 4(b)(ii), produce and submit an updated statement when there has been a material change in the club's corporate governance arrangements, such as a change in ownership and control, or a restructuring.

257. The club is required to publish its latest statement online paragraph 5(b). All clubs' latest statements must also be published by the IFR (i.e. on the IFR's website) as soon as reasonably practicable paragraph 6 (1).

258. Paragraphs 6(2)-(4) specify that the IFR must publish an annual corporate governance report that: summarises the extent to which clubs are applying the code, sets out the main corporate governance issues which are apparent from clubs' statements, and recommends how clubs can improve their corporate governance arrangements. This is intended to identify, highlight and share best practices in governance at clubs and any general concerns on corporate governance across the industry.. This is intended to improve transparency and accountability, while simultaneously providing reputational incentives for clubs to improve their corporate governance arrangements. Paragraph 6(4) allows the IFR to decide the timing and form of its report, and allows the IFR to include other matters in the report where specified within IFR rules.

## Fan consultation

259. This mandatory licence condition (paragraph 8) requires clubs to regularly meet with a group which the IFR considers representative of the club's fans on relevant matters and discuss the relevant matters which are referred to in paragraph 4 of Schedule 4, the threshold requirement. Clubs should have due regard to the views expressed by the representative group of fans but will not, however, be bound by the views of fans. Given the broad nature of those relevant matters, clubs should be expected to formalise their engagement with their representative group of fans through a mutually agreed way of working.

260. Paragraph 9, sub-paragraph (1) provides that the IFR may, in instances where it considers it necessary, specify in the condition how a representative group of fans should be constituted, the regularity of its engagement with clubs, and how that engagement should take place. In doing so, the IFR is required to have regard to the size and composition of the club's fanbase (sub-paragraph (2)). This will not specify individuals who should join the representative group of fans, rather, it may, for example, require clubs to implement an independent mechanism whereby fans are selected, or voted in, to speak for the wider fanbase.

## Annual declaration

261. Paragraphs 10 and 11 requires a club to submit an annual declaration to the IFR including:

- a. A summary of any material changes in circumstances that were or should have been notified to the IFR that year, or a statement confirming there were no changes, and
- b. Any additional information the IFR may require.

262. This declaration will provide a formal, annual touch point for the club with the IFR, since there is no requirement for licences to be periodically renewed.

## Interpretation

263. Paragraph 12 defines the term 'specified' for the purpose of this Schedule.

## **Schedule 6: Commitments in lieu of financial discretionary licence conditions**

### Application of Schedule

264. Before the IFR can use financial discretionary licence conditions to address identified financial risks at individual football clubs, it must give the relevant competition organiser the opportunity to propose a solution - a 'commitment in lieu of discretionary licence condition'.

265. Paragraph 1 outlines that the Schedule applies in relation to commitments offered by specified competition organisers (a body that organises a specified competition as per clause 2) in place of financial discretionary licence conditions imposed by the IFR (see clause 23). This Schedule applies when the IFR is accepting a commitment or a variation of a commitment from a

specified competition organiser, or releasing a specified competition organiser from a commitment (see clause 24).

### Procedure for accepting a commitment or requested variation

- 266.Paragraph 2, sub-paragraph (1) before accepting a commitment or a variation of a commitment from a specified competition organiser, the IFR must notify the relevant club and consider representations from the club in relation to the notice.
- 267.Paragraph 2, sub-paragraph (2) outlines that the notice must include details of the commitment or commitment variation that the IFR is minded to accept, why the IFR is minded to accept the commitment or variation, and the time period the club has to make representations to the IFR concerning the commitment or variation.
- 268.Paragraph 3 the IFR must give both the club and the specified competition organiser notification of its decision whether to accept the commitment, or variation to a commitment as soon as reasonably practicable.
- 269.Paragraph 4 this section does not apply if the IFR considers that a variation to a commitment is not a significant, material change.

### Procedure for releasing a specified competition organiser from a commitment

- 270.Paragraph 5, sub-paragraph (1) requires the IFR, before releasing a specified competition organiser from a commitment, to give notice of this intention to both the relevant club and the specified competition organiser. The IFR must consider any representation made in response by either the club or the specified competition organiser.
- 271.Paragraph 5, sub-paragraph (2) the notice must include confirmation that the IFR proposes to release the specified competition organiser from the commitment, the reasons why the IFR is considering releasing the specified competition organiser, and the time period for representations to be made in respect of this notice.
- 272.Paragraph 6 requires the IFR to notify both the relevant club and the competition organiser of its decision whether to release the specified competition organiser as soon as reasonably practicable.

## Part 4: Owners and officers of regulated clubs: suitability etc

### Introductory

#### Clause 26: Part 4: overview and interpretation

- 273.Part 4 provides for the IFR to determine the suitability of persons to be owners and officers of regulated clubs (i.e. operates a relevant team in a specified competition as per clause 2), and to take action to ensure the removal of owners and officers who are not suitable. Clause 26

provides an overview of Part 4.

274. Subsections (7) and (8) define when an individual meets the “individual ownership fitness criteria” and “individual officer fitness criteria” respectively. These criteria are applied by the IFR when making determinations under this Part, in particular under clauses 28 and 34 (when assessing owners on the individual ownership fitness criteria) and clauses 29 and 35 (when assessing officers on the individual officer fitness criteria). These subsections should be read in conjunction with clause 37 (“matters relevant to determinations”), in particular, subsections (3) - (6) of that clause.

### **Persons who become owners or officers of regulated clubs**

275. Clauses 27 to 32 relate to persons who become, or have a prospect of becoming, owners or officers of regulated clubs. An owner of a club is defined in clause 3 and Schedule 1 of the Bill. An officer of a club is defined in clause 4.

#### **Clause 27: Duties to notify IFR of prospective new owner or officer**

276. This clause provides for the IFR to be notified about prospective new owners and officers of regulated clubs.

277. Subsection (1) requires a person to notify the IFR where the person considers there is a reasonable prospect that they will become an owner of a particular regulated club. Subsection (2) imposes an equivalent obligation on individuals who consider there is a reasonable prospect they will become an officer. Subsection (3) requires regulated clubs to notify the IFR about prospective new owners or officers.

278. Subsection (5) specifies information that must be included in a notification under this clause. Subsection (6) specifies the required timing of a notification under this clause, including that it must be given before the person concerned actually becomes an owner or officer of the regulated club in question.

279. Subsection (7) provides for cases where a prospective owner or officer or a regulated club has failed to notify the IFR before the person concerned actually becomes an owner or officer. It requires a notification to be given after the fact, as soon as reasonably practicable.

#### **Clause 28: Determination of suitability required for new owner**

280. This clause prohibits any person from becoming an owner of a particular regulated club without first applying to the IFR and being determined to be suitable for that role (and see clause 30 and the enforcement provisions in clauses 39 and 41-43 for the consequences of failing to comply with this prohibition). It provides for the IFR to make suitability determinations about new owners in response to such applications.

281. Subsection (2) provides for the IFR to make rules about the content, manner and form of an application from a prospective new owner under this clause. The rules must require an application to include certain financial information, including the estimated costs for

operating the club, how those costs will be funded and the source of such funding. This information may be useful to the IFR when it makes a determination, for example when assessing the sufficiency of an applicant's financial resources. Any application must comply with these rules in order for the IFR to make a suitability determination about the applicant.

282. This clause makes a distinction between new owners who are individuals and new owners who are registered societies. Registered societies, defined in clause 91, are a vehicle sometimes used by fan groups to own (in whole or in part) the club they support.

283. Subsections (3) and (4) set out the tests the IFR must apply when making a suitability determination about an applicant under this clause. Subsection (3) is relevant where the applicant is a registered society, whereas subsection (4) is relevant where the applicant is an individual. The "individual ownership fitness criteria" are defined in clause 26 subsection (7), and clause 37 specifies matters the IFR must have regard to when considering these criteria.

284. Taken together, subsections (3) - (7) set out when the IFR will make an "affirmative determination" (i.e. determine that the applicant is suitable to be an owner of the club in question) and when it will determine that the applicant is not suitable. The IFR will make an affirmative determination only when the applicant meets all the applicable tests in either subsection (3) or (4) and the applicant is not currently disqualified by an order under clause 38. In any other case (i.e. if the applicant does not meet one or more of the applicable tests, or is disqualified) it will determine that the applicant is not suitable.

285. Subsection (8) sets out when an affirmative determination "has effect", and when it ceases to have effect. Specifically, the affirmative determination ceases to have effect if the individual stops being an owner of the club in question, or if the individual is assessed again as an incumbent and found not suitable. Whether or not an affirmative determination under this clause has effect is relevant for whether or not the owner in question is treated as an incumbent owner under clause 34 (see clause 34 subsection (3)(b)). As long as the club remains regulated, the owner continues to be an owner, and an affirmative determination has effect, they will be treated as an incumbent owner.

## Clause 29: Determination of suitability required for new officer

286. Subsection (1) prohibits any individual from becoming an officer of a particular regulated club (per clause 2) without first applying to the IFR and being determined to be suitable for that role (see clause 30 and the enforcement provisions in clauses 40-42 for the consequences of failing to comply with this prohibition). It provides for the IFR to make suitability determinations about new officers in response to such applications.

287. Subsection (2) provides for the IFR to make rules about the content, manner and form of an application from a prospective new officer under this clause. Any application must comply with these rules in order for the IFR to make a suitability determination about the applicant.

288. Subsection (3) sets out the test the IFR must apply when making a suitability determination about an applicant under this clause. The "officer fitness criteria" are defined in clause 26(8),

and clause 37 specifies matters the IFR must have regard to when considering these criteria.

289. Taken together, subsections (3) - (5) set out when the IFR will make an “affirmative determination” (i.e. determine that the applicant is suitable to be an officer of the club in question) and when it will determine that the applicant is not suitable. The IFR will make an affirmative determination only when the applicant meets the test in subsection (3) and the applicant is not currently disqualified by an order under clause 38. In any other case it will determine that the applicant is not suitable.

290. Subsection (6) sets out when an affirmative determination “has effect”, and when it ceases to have effect. Specifically, the affirmative determination ceases to have effect if the individual stops being an officer of the club in question, or if the individual is assessed again as an incumbent and found not suitable. Whether or not an affirmative determination under this clause currently has effect is relevant for whether or not the officer in question is treated as an incumbent officer under clause 35 (see clause 35(2)(b)). As long as the club remains regulated, the officer continues to be an officer, and an affirmative determination has effect, they will be treated as an incumbent officer.

291. See also clause 31 for the IFR’s notification requirements in respect of determinations under clauses 28 and 29, and clause 32 for the time limits within which the IFR has to make determinations under these clauses.

### Clause 30: Becoming an owner or officer without a determination

292. This clause provides for the case where the IFR becomes aware that a person has become an owner or an individual has become an officer of a particular regulated club without first obtaining a suitability determination under clause 28 and 29 (either because the person concerned failed to make an application, or because the IFR had not yet made a determination on their application).

293. In such a case, subsections (1) and (3) require the IFR to either give the person concerned a notice requiring them to make an application under clauses 28 and 29 by a specified date (in effect treating the person as if they were applying as a new, prospective applicant), or a notice stating that the person is not suitable for the role in question.

294. But if the person is currently disqualified by an order under clause 38, subsections (2) and (4) require the IFR to give the person a notice stating that the person is not suitable for the role in question.

295. Subsections (5) and (6) allow the IFR to extend the date by which a subsection (1) or (3) notice requires a new owner or officer to make an application. If the person concerned ultimately fails to make an application by the specified date (including any extensions granted by the IFR), the IFR must give them a notice stating that they are not suitable for the role in question (subsection (7)).

296. If the IFR gives an owner or officer a notice that they are not suitable under this clause, the owner or officer is treated in the same way as if the IFR had received an application from

them under clause 28 and 29 and determined that they were not suitable on the basis of their application (subsection (8)).

### Clause 31: Opportunity to make representations about proposed negative determinations

297. Clause 31 places advance notification requirements on the IFR before it makes negative suitability determinations about new owners and officers of regulated clubs.

298. If the IFR is minded to take action that will result in a new or prospective owner or officer being treated as not suitable to be the owner of a particular regulated club, it must give advance notice to the person and the club concerned. This applies before the IFR makes a determination under clause 28 or 29 that a person is not suitable to be a new owner or officer of a particular regulated club (subsection (1)), as well as before the IFR issues a notice under clause 30 stating that a person is not suitable to be an owner or officer of a particular regulated club (subsection (2)).

299. Advance notice under this clause must be given before the IFR has made a final decision, and it must allow the person and club concerned an opportunity to make representations. The IFR must then take these representations into account when making its final decision (subsection (2)(b)).

### Clause 32: Determinations under section 28 and 29: time limits

300. Clause 32 subsection (2)(a) gives the Secretary of State a power to make regulations specifying a period within which the IFR must make its suitability determination after a person makes a complete application under clauses 28 and 29 (subsection (1)).

301. The Secretary of State also has a power to make regulations specifying the maximum allowable extension of that period (subsection (4)).

302. Subsection (5) states that if the IFR does not make its determination within the specified period (including any extensions granted by the IFR under subsection (3), up to the allowable maximum total period under subsection (4)), the IFR is to be treated as having determined that the person is not suitable to be an owner or officer of the club.

## **Determinations relating to incumbent owners and officers**

### Clause 33: Duties to notify IFR of change in circumstances relating to incumbent owner or officer

303. Subsection (1) requires each individual owner or officer of a regulated club to notify the IFR of any material changes in circumstances relevant to whether the individual is suitable to be an owner or officer of the club. Regulated clubs must also notify the IFR of any material changes relating to their owners and officers (subsection (2)). Relevant material changes could include, for example, an officer becoming subject to criminal proceedings or regulatory action, or new information coming to light regarding whether an owner's source of wealth is connected to



serious criminality.

304. Subsections (3) and (4) make provision about the timing and content of notifications under this clause.

### Clause 34: Incumbent owners

305. This clause provides the IFR with the power to make determinations about the suitability of incumbent individual owners (per subsection (3) of this clause) of regulated clubs. Such determinations can be made only about the matters specified, and under the conditions specified, in subsections (1) and (2).

306. Subsection (1) allows the IFR to make a determination about whether an incumbent owner meets the individual ownership fitness criteria (as defined in clause 26 subsection (7)), only if the IFR has information that gives it grounds for concern about whether the individual owner meets those criteria. Subsection (2) allows the IFR to make a determination about whether an incumbent owner has a source of wealth which is connected to serious criminal conduct, only if the IFR has grounds to suspect that might be the case.

307. Subsection (3) specifies when an individual may be the subject of a determination under this clause – i.e. when an individual is to be treated as an incumbent owner (see clause 28 subsection (8) for when an affirmative determination under that clause “has effect”).

308. Subsection (4) requires the IFR to notify the individual and club concerned before making a determination under this clause.

309. Subsections (5)-(8) set out the requirements for the IFR to make a positive determination under this clause which will allow the incumbent owner to continue as an owner of the club in question.

310. Depending on whether the conditions in subsection (1), (2), or both, are met, the IFR may be making a determination about the “individual ownership fitness criteria” (in which case subsection (5) applies), about the incumbent owner’s source of wealth (in which case subsection (6) applies), or about both.

311. In order to make a positive determination, the IFR must reach the findings described in subsection (5), (6), or both, as applicable. If the IFR does make a positive determination, it must notify the owner and club, and the owner may continue to be an owner of the club in question.

312. If, in making a determination about an incumbent owner, the IFR does not reach the applicable findings described in subsection (5) or (6), then the IFR is not able to make a positive determination. The IFR is then treated as having determined that the incumbent owner is not suitable to be an owner of the club in question, and must notify the owner and the club (subsections (9) and (10)). Clauses 39 and 41 - 43 provide for the IFR to take enforcement action in such cases, including action to remove the owner.

### Clause 35: Incumbent officers



313. This clause provides the IFR with the power to make determinations about the suitability of incumbent individual officers of regulated clubs. Determinations about incumbent officers are made by reference to the “officer fitness criteria” (see clause 26 subsection (8)) and can only be made if the IFR possesses information which gives it grounds for concern about whether the individual meets those criteria (subsection (1)).

314. Subsection (2) specifies when an individual may be the subject of a determination under this clause – i.e. when an individual is to be treated as an incumbent officer (see clause 29 subsection (6) for when an affirmative determination under that clause “has effect”).

315. Subsection (3) requires the IFR to notify the individual and club concerned before making a determination under this clause.

316. When making a determination under this clause, if the IFR finds that the incumbent officer concerned does not meet the officer fitness criteria, it must notify the officer and club. The officer may continue to be an officer of the club in question (subsection (4)).

317. If the IFR does not find that the incumbent officer meets the individual officer fitness criteria, the incumbent officer is not suitable to be an officer of the club, and the IFR must give notice of that fact to the officer and the club (per subsection (5)). Clauses 40 - 42 provide for the IFR to take enforcement action in such cases, including action to remove the officer.

### Clause 36: Opportunity to make representations about proposed negative findings

318. If the IFR is minded to make a finding that will result in an incumbent owner or officer being determined not suitable to be an owner or officer of a particular regulated club (and therefore result in their removal from the club), this clause requires it to give advance notice to the person and the club. This applies before the IFR makes a finding under clause 34 that an incumbent owner does not meet the individual ownership fitness criteria or that they have a source of wealth that is connected to serious criminal conduct, as well as before the IFR makes a finding under clause 35 that an incumbent officer does not meet the officer fitness criteria.

319. Advance notice under this clause must be given before the IFR has made a final decision about its finding, and it must allow the person and club concerned an opportunity to make representations. The IFR must then take these representations into account when making its final decision.

### Further provisions about determinations

#### Clause 37: Matters relevant to determinations

320. Subsection (1) requires the IFR to have regard to relevant determinations made by competition organisers (as defined in clause 2 subsection (1)) when the IFR makes its own determinations.

321. Competition organisers may make their own suitability determinations for owners or officers. If a competition organiser makes a determination about some of the same matters as the Bill

requires the IFR to consider, the IFR might consider that determination relevant and take the competition organiser's findings into account.

322. Where the IFR is making a determination under clause 28 or 34 – i.e. a determination about a new or incumbent owner – subsection (2) requires the IFR to have regard to the foreign and trade policy objectives of the UK government.

323. Subsection (3) specifies the matters the IFR must consider when determining whether an individual has the requisite honesty and integrity. Having the requisite honesty and integrity is one of the “officer fitness criteria” and also one of the “individual ownership fitness criteria” (as defined in clause 26). It is therefore relevant to determinations about new and incumbent officers and determinations about new individual owners. It may also be relevant to determinations about incumbent owners. Subsection (3)(g) permits the IFR to specify additional matters in rules.

324. Subsection (4) specifies the matters the IFR must have regard to when determining whether an individual is financially sound. Financial soundness is one of both the officer fitness criteria and the individual ownership fitness criteria. It is therefore relevant to determinations about new and incumbent officers and determinations about new individual owners. It may also be relevant to determinations about incumbent owners. Subsection (4)(c) permits the IFR to specify additional matters in rules.

325. Subsection (5) specifies the matters the IFR must have regard to when determining whether an individual possesses the requisite competence – one of the officer fitness criteria and therefore relevant to determinations about new and incumbent officers.

326. Subsection (6) prevents the IFR from having regard to any matters other than those specified in subsection (3), (4) or (5), or in rules made in accordance with subsections (3)(g) or (4)(c). But this is subject to the requirements in subsections (1) and (2) for the IFR to also have regard to relevant determinations by competition organisers and to UK government foreign and trade policy objectives.

327. Subsection (7) provides that the IFR may not use its subsection (3)(g) or (4)(c) power to specify additional matters in rules in such a way that it could then make a determination based solely on an owner or officer's connection with the government of any country or territory. The IFR could of course still determine that an owner or officer with state connections was not suitable where it has followed the applicable process and made the necessary findings under this Part, but the owner or officer's state connections, in and of themselves, could not be the sole basis for the determination.

## **Disqualification orders and enforcement**

### **Clause 38: Disqualification orders**

328. Clause 38 provides the IFR with a power to make an order disqualifying a person, whom the IFR has determined (or treated as having determined) not to be suitable to run a particular regulated club, from being an owner (subsection 1) and/or officer (subsection 2)) of *any*

regulated club.

329. Subsection (3) specifies that where the IFR makes a disqualification order, it must notify the person and the relevant club (if applicable), providing the reasons for the order and inviting them to make representations. Subsection (4) specifies the time period for those representations.

330. Subsection (5) specifies that after having received any representations, the IFR must make and publish a notice of its decision (with the reasons for the decision) as soon as reasonably practicable.

331. The disqualification order itself will contain the time period by which the person is suspended from regulated clubs. Subsection (6) clarifies that a person is disqualified from being an owner and/or officer for a period of time, up to and including a lifetime disqualification.

332. Subsection (7) specifies that the IFR may revoke a disqualification order.

### Clause 39: Removal directions: owners

333. Subsections (1) and (2) specify that where the IFR has determined or is treated as having determined that an owner (P) of a regulated club is not suitable to be an owner, the IFR must give P a removal direction requiring them to take all reasonable steps to cease to be an owner before the end of 'the removal period'. The exception to this requirement (as per subsection (7)) is where P has become an owner without prior IFR approval and is then determined, or treated as having been determined, to be unsuitable under clause 28 and the IFR goes straight to exercising its power to make an ownership removal order (under clause 43) within 3 months starting from the 'applicable day'.

334. As per subsections (8) to (10) the applicable day is the day on which an appeal (if brought) of the relevant determination or deemed determination is determined. Otherwise, the applicable day is the day on which the IFR publishes its decision on a review (if carried out) of the relevant determination or deemed determination. Otherwise, the applicable day is the day on which the IFR publishes the relevant suitability determination or notice of deemed determination.

335. Subsection (3) sets out that 'the removal period' will be the period specified in the removal direction or, if the IFR has issued any further directions to extend this period (as per subsection (4)), the extended period.

336. Subsection (5) requires the IFR to consult with the relevant person (i.e. the unsuitable owner), the club and the relevant specified competition organiser before giving a removal direction.

337. Subsection (6) specifies that the IFR, at the same time as giving a removal direction, must also give the unsuitable owner and their club notice that explains the possible consequences (in terms of possible enforcement action) of not complying with the direction.

### Clause 40: Removal directions: officers

338. Subsections (1) and (2) specify that where the IFR has determined or is treated as having determined that an officer of a regulated club is not suitable to be an officer, the IFR must give either (or both):

- a. the unsuitable officer a removal direction requiring them to take all reasonable steps to cease to be an officer before the end of 'the removal period';
- b. the relevant club a removal direction requiring the club to take all reasonable steps to ensure the unsuitable officer is no longer an officer of the club before the end of the removal period.

339. Subsection (3) sets out that 'the removal period' will be the period specified in the removal direction or, if the IFR has issued any further directions to extend this period (as per subsection (4)), the extended period.

340. Subsection (5) requires the IFR to consult with the relevant individual (i.e. the unsuitable officer), the club and the relevant specified competition organiser before giving a removal direction.

341. Subsection (6) specifies that the IFR, at the same time as giving a removal direction, must also give the officer and their club (or in the case of a removal direction given to a club, only the club) a notice that explains the possible consequences (in terms of possible enforcement action) of not complying with a removal direction.

#### Clause 41: Directions relating to unsuitable owners and officers

342. Subsection (1) sets out that this clause applies where the IFR determines or is treated as having determined that an owner or an officer, is not suitable to be an owner or an officer of a regulated club respectively.

343. Subsection (2) specifies that the IFR may i) give the unsuitable owner or officer a direction prohibiting them (fully or partly) from carrying out specified activities or exercising specified rights as an owner or officer and/or ii) give the club a direction requiring it to ensure that the unsuitable owner or officer does not carry out or exercise (fully or partly) specified activities or rights.

344. Subsection (3) provides a non-exhaustive list of what prohibitions a direction may contain. This includes prohibitions from:

- a. exercising any right to vote on matters relating to the relevant club's activities;
- b. appointing, terminating the appointment, or changing the terms of appointment or responsibilities, of any officer or employee of the club;
- c. changing the corporate structure of the club;
- d. and undertaking any specified actions without obtaining the prior approval of the IFR.

345. Subsection (4) specifies that a direction under this clause comes into force at the time specified in or determined by the direction, is in effect for the period specified in the direction and may be revoked or varied by a further direction.

346. Subsection (5) specifies that the IFR, at the same time as giving a direction, must also give the unsuitable owner or officer and their club (or in the case of a direction given to a club, only the club) a notice that explains the possible consequences (in terms of possible enforcement action) of not complying with the direction.

## Clause 42: Orders and directions effecting alternative officers arrangements

347. Subsection (1) specifies that this clause applies where the IFR has given a direction relating to unsuitable owners and officers (under clause 41) and the IFR considers that the ability of the club to operate effectively or to comply with regulatory requirements is (or is likely to be) adversely affected by compliance with that direction.

348. Subsection (2) specifies that, in order to mitigate or avoid an adverse effect on the club of the IFR's direction under clause 41, the IFR may:

- a. make an order appointing a particular individual as an officer of the relevant club to carry out specified functions for a specified period (i.e. an interim officer);
- b. and/or direct the club to redistribute specified functions amongst its other existing officers. Those specified functions must be included in an order under subsection (2)(a).

349. Subsection (3) specifies that where the IFR makes an order appointing an individual as an interim officer, the order: must specify or describe the functions that the individual will exercise; comes into force at the time specified in or determined by the order; and may be revoked or varied by a further order.

350. Subsection (4) specifies that where the IFR directs a club to redistribute specified functions amongst its other existing officers, the direction comes into force at the time specified in or determined by the direction, is in effect for the period specified in the direction and may be revoked or varied by a further direction.

351. Subsection (5) specifies that the IFR may make rules providing for the costs incurred by the IFR in relation to the appointment of an individual as an interim officer and costs incurred by that individual, to be payable by the relevant club.

352. Subsection (6) specifies that where an individual is appointed as an interim officer of a club by order of the IFR under this clause, the club, each owner of the club and each officer of the club, must cooperate with that individual and give them reasonable assistance as the individual requests, in connection with the exercise of their functions.

353. Subsections (7) and (8) specify that, at the same time as making an order the IFR must also give the relevant club as well as each of the club's owners and officers a notice that explains the possible consequences (in terms of possible enforcement action) of not complying with the

duty under subsection (6) to cooperate with an interim officer appointed by an order. Similarly, at the same time as giving a direction, the IFR must also give the relevant club a notice that explains the possible consequences (in terms of possible enforcement action) of not complying with the direction.

354. Subsection (9) specifies that references to ‘officers’ throughout the Bill does not include an individual who is appointed as an interim officer of a club by order of the IFR under this clause. This means, for instance, that an interim officer is not subject to the duties and requirements placed on officers that are specified throughout the rest of the Bill.

### Clause 43: Ownership removal orders

355. Subsections (1) and (2) specify that if any of the conditions set out in subsection (2) are met, the IFR may make an ownership removal order to ensure that a person (“P”) who is an owner of a regulated club ceases to be an owner by the end of the time period specified in the order.

356. Subsection (2) sets out the conditions in which the IFR may make an ownership removal order, which include:

- a. P has become an owner without prior IFR approval and is then determined, or treated as having been determined, unsuitable (under clause 28);
- b. P has failed, without reasonable excuse, to comply with a removal direction given to P under clause 39;
- c. P has failed, without reasonable excuse, to comply with a direction given to P under clause 41;
- d. a direction under clause 41 has effect in relation to P and P has, without reasonable excuse, obstructed or failed to cooperate with or assist an interim officer appointed by order of the IFR under clause 42.

357. Subsection (3) sets out a non-exhaustive list of what provision an ownership removal order may include, such as provision which allows for:

- a. the appointment of trustees;
- b. the conferment of functions on those trustees (which may allow for trustees to action on behalf of P or any other person);
- c. P or any other person to be required to take certain action, including in response to directions from appointed trustees.

358. Subsection (4) specifies that where functions are conferred on trustees (e.g. where trustees are enabled to take action on behalf of the unsuitable owner P), this can include authorising trustees to take any steps they consider appropriate to achieve the purposes of the ownership removal order (i.e. that P ceases to be an owner by the end of the period specified in the order as per subsection (1)).

359. Subsection (5) specifies that any appointed trustee must not have a conflict of interest and must have the necessary skills to discharge their functions under the ownership removal order.

360. Subsection (6) specifies that where a trustee is appointed under this clause, the club, each of the club's owners (including P) and each of the club's officers must cooperate with the trustee, and give the trustee reasonable assistance as the trustee requests (e.g. access to premises, equipment and information) in connection with the exercise of the trustee's functions.

361. Subsection (7) specifies that an appointed trustee must:

- a. provide the IFR with regular reports on the exercise of their functions under the ownership removal order and cooperation or assistance provided by P or the relevant club;
- b. and obtain the IFR's approval before making any arrangements that would result in P ceasing to be an owner of the club.

362. Subsection (8) specifies that the IFR can only withhold approval to those arrangements if the IFR considers that

- a. arrangements would result in any person becoming an owner of the club without the IFR having first determined that they are suitable to be an owner
- b. or any party to a proposed disposal of an interest in the club (e.g. a sale of shares) is considered by the IFR to be acting in bad faith.

#### Clause 44: Orders under section 43: procedure, costs and liabilities

363. Subsection (1) specifies that before making an ownership removal order under clause 43, the IFR must publish a notice, which:

- a. gives details of the fact the IFR proposes to make the order and the reasons for the proposed order;
- b. gives a summary of the provisions the IFR proposes to include in the order (e.g. appointment of trustees);
- c. invites representations about the proposed order;
- d. and specifies how and by when those representations can be made, and that the IFR must have regard to those representations.

364. Subsection (3) specifies that, as soon as reasonably practicable after the period for making representations has ended, the IFR must

- a. decide whether to make an ownership removal order under clause 43;
- b. and publish a notice of its decision, including the reasons for its decision.

365. Subsection (4) specifies that the IFR, at the same time as making an ownership removal order,



where the order imposes requirements on the unsuitable owner, must give the unsuitable owner and their club (or in the case of requirements imposed on the club only, just the club) a notice that explains the possible consequences (in terms of possible enforcement action) of not complying with the ownership removal order. At the same time, the IFR must also provide a notice to the club, and each of the club's owners and officers that explains the possible consequences (in terms of possible enforcement action) of not complying with the duty to cooperate with an appointed trustee.

366. Subsection (5) specifies that the order comes into force on the date specified in or determined by the order, has effect for the period specified in the order and may be varied or revoked by a further order.

367. Subsection (6) specifies that the IFR may make rules providing for the costs incurred by the IFR in relation to an ownership removal order, and the costs incurred by any appointed trustee, to be payable by the unsuitable owner.

## **Part 5: Duties on clubs and competition organisers etc**

### ***Duties on regulated clubs and formerly regulated clubs etc***

#### **Clause 45: Duty not to operate a team in relation to a prohibited competition**

368. Subsections (1) - (4) prohibit any club that is regulated (i.e. which operates a relevant team as per clause 2), or which has been regulated within the previous 10 years, from operating a team that competes in a competition prohibited by the IFR in its rules. The duty applies to previously regulated clubs, which will prevent clubs from circumventing the requirement by breaking away entirely from existing competitions (i.e. ceasing to operate a relevant team in any specified competition) so as to join a new prohibited competition. The 'previous 10 years' does not take into account any time before this section has effect.

369. Subsection (5) sets out some factors that the IFR must consider when deciding whether or not to specify a competition as prohibited. This includes whether a competition is (or would be) fair, open and meritocratic, its impacts (and potential impacts) on the sustainability of relevant competitions and clubs in those competitions (where 'relevant competitions' is defined in subsection (11)), and impacts (and potential impacts) on the heritage of English football. The IFR must also consider any other factors it specifies in its rules.

370. Subsections (6)-(9) outline the procedure the IFR must follow before prohibiting a competition. This includes that the IFR must:

- a. notify the competition organiser in question, explaining its reasoning for proposing to prohibit the competition and inviting representations;
- b. take reasonable steps to determine the views of fans in England or Wales of regulated clubs about the competition being prohibited, and have regard to those views;
- c. consult the FA, and any other persons the IFR considers appropriate.



371. Subsection (10) clarifies that the IFR can specify a competition as prohibited, even where this is not an English or Welsh competition.

372. Subsection (11) defines two terms for the purposes of the section. This includes defining a “relevant competition” as any non-prohibited competition that exclusively or predominantly comprises English teams. “English team” has the same meaning as defined in clause 2 of the Bill.

#### Clause 46: Duty not to dispose etc of home ground without approval

373. This clause imposes duties on regulated clubs, and bodies that have been regulated clubs within the last 10 years (“formerly regulated clubs”), in relation to their home ground (subsections (2) and (3)). The “home ground” is the ground where a team regulated under the Bill plays their home games (or for a formerly regulated club, where they played their home games immediately before they stopped being a regulated club). This duty applies to formerly regulated clubs, which will prevent circumvention by a body ceasing to operate a relevant team so that it can take actions in relation to its home ground without needing regulatory approval.

374. Subsections (1) and (4) require the regulated or formerly regulated club to notify the IFR as soon as reasonably practicable where it considers there is a reasonable prospect of it selling or otherwise disposing of an interest in the freehold or leasehold of the home ground. This also applies when there is a reasonable prospect of it using the home ground as security for a loan or other liability.

375. Subsection (5) requires the the regulated or formerly regulated club to obtain approval from the IFR before entering into any such transaction.

376. Subsections (6) and (7) require the IFR to grant approval if, in the case of a currently regulated club, it is satisfied that the financial sustainability of the club will not be undermined by the proposed transaction. Or alternatively, in the case of a formally regulated club, it is satisfied that the body has taken all reasonable steps to ensure that a football team can play its home matches at the ground. The IFR cannot grant approval if the test is not met.

377. Subsections (8) and (9) require that the IFR must make a decision as soon as reasonably practicable and notify the the regulated or formerly regulated club of the decision with reasons.

#### Clause 47: Duty not to appoint administrator without approval

378. This clause imposes duties on regulated clubs, and bodies that have been regulated clubs within the last 10 years (“formerly regulated club”), in relation to the appointment of an administrator. Administration is an insolvency process whereby a licensed insolvency practitioner (“the administrator”) is appointed to take over the running of a company. Administration can be used as a way to rescue a company through the implementation of a recovery plan. As with clause 46, this duty applies to formerly regulated clubs which will prevent circumvention.

379. Subsection (1) requires the regulated or formerly regulated club to notify the IFR when it considers there is a reasonable prospect of it appointing an administrator.

380. Subsection (2) requires the regulated or formerly regulated club to obtain approval from the IFR before appointing an administrator. This means that the regulated or formerly regulated club cannot place itself in administration without IFR approval. IFR approval is not required where it is a creditor or the court that appoints the administrator.

381. Subsections (3) and (4) deal with procedural matters relating to the appointment of an administrator by the regulated or formerly regulated club.

## **Duties on regulated clubs**

### **Clause 48: Duty not to relocate without approval**

382. This clause imposes duties on regulated clubs relating to where they play their home matches.

383. Subsections (1) and (2) require the club to notify the IFR as soon as reasonably practicable when it considers there is a reasonable prospect of entering into arrangements whereby they would play their home matches at a ground other than their home ground. 'Home ground' has the same meaning as it does in clause 46 (subsection (8)).

384. Subsection (3) requires clubs to obtain the approval of the IFR before they enter into any arrangement.

385. Subsections (4) and (5) require the IFR to grant approval if it is satisfied that the arrangements:

- a. would not undermine the financial sustainability of the club;
- b. and would not cause significant harm to the heritage of the club. The IFR cannot grant approval if the test is not met.

386. Subsections (6) and (7) require the IFR to make a decision as soon as reasonably practicable and notify the club of its decision with reasons.

### **Clause 49: Duties not to change crest, home shirt colours or name without approval**

387. This clause imposes duties on regulated clubs relating to club heritage.

388. Subsection (1) requires a club to take reasonable steps to establish that any material changes to the club's crest or predominant home shirt colours are supported by a majority of the club's fans in England and Wales before proceeding with the change.

389. Subsection (2) prevents a club from making any changes to the club's playing name unless the changes have been approved by the FA.

### **Clause 50: Duty to notify of changes in circumstances relevant to the IFR's functions**

390. This clause sets out notification requirements on licensed clubs ( a club that holds an operating licence as per clause 2).

391. Subsections (1) and (2) require a club to notify the IFR as soon as reasonably practicable after the club considers there has been or may have been a material change in circumstances affecting the club. As elsewhere in the Bill, the ‘circumstances affecting the club’ can encompass a broad range of factors related to the internal nature and behaviour of the business, and the external context in which it operates - this includes the club’s compliance with past or existing regulatory requirements.

392. Subsection 3 exempts the club from having to notify the IFR of a material change in circumstances under this section if it has already notified the IFR of it as part of compliance with a different requirement.

## **Duties on licensed clubs**

### **Clause 51: Duty to publish a personnel statement**

393. Subsection (1) imposes a duty on each licensed club to prepare a personnel statement and submit it to the IFR for approval.

394. A “personnel statement” is defined in clause 16. It is a statement identifying the club’s owner(s), its ultimate owner(s), and its officers. It must include a job title or role description for each of the club’s officers and specify the senior management functions performed by each of the club’s senior managers. The “owner” and “ultimate owner” of a club are defined by clause 3 and Schedule 1, and “officer”, “senior manager” and “senior management functions” are defined in clause 4.

395. Subsection (2) requires the licensed club to explain to the IFR why it considers its submitted personnel statement accurate (in other words, why it thinks that the persons named are its ultimate owner(s), owner(s), senior managers and officers, in accordance with the Bill’s definitions of those terms).

396. Subsections (3) and (4) provide that the IFR may approve the statement as provided to it by a club, or may make modifications to the statement (to ensure that it is accurate) before approving it. If the IFR intends to modify a club’s statement, it must consult the club.

397. The club must publish the version of the statement approved by the IFR (whether or not the IFR has modified it) (subsection (5)).

398. Clause 16 also requires clubs to provide a personnel statement to the IFR (when applying for a provisional operating licence). To avoid unnecessary duplication, subsection (8) therefore allows a club to comply with this clause by simply referring the IFR to its initial statement submitted under clause 16, if that initial statement remains accurate.

### **Clause 52: Duty to pay a levy**

399. This clause will give the IFR a power to collect a levy from football clubs who hold an operating licence (licensed clubs). Licensed clubs will be required to pay a levy in respect of every chargeable period (defined in subsection 11 of this clause) which they remain licensed

for, unless specified conditions in levy rules are met.

400.Subsection (2) sets out that the IFR must design a methodology (set out within levy rules) as to how annual levy payments for individual clubs will be calculated.

401.Subsection (3) sets out that the IFR's levy rules must ensure that the total amount the IFR charges for any chargeable period is not greater than:

- a. the IFR's estimated operating costs in carrying out its leviable functions during that period (including both ongoing, and new regulatory activities in response to regulatory changes) and an amount for contingencies;
- b. the level of financial reserves which the IFR considers appropriate that it needs to meet any costs of exercising its leviable functions in that period and in future periods which will be subject to periodic review by the department;
- c. the amount that actual costs exceeded estimates made by the IFR for the previous chargeable period (with a view to correcting overspend from the previous period);
- d. (minus) the amount that estimates exceeded actual costs for the previous chargeable period (with a view to correcting overcharges from the previous period) and;
- e. the amount the IFR needs to recoup for a chargeable period to cover costs associated with setting up the IFR before the first chargeable period (these include the IFR's initial set up costs and the Secretary of State's costs in establishing the IFR incurred by the Exchequer).

402.Subsection (4) explains that the IFR's "leviable functions" are the IFR's functions under this Bill excluding the functions that are found in:

- a. clause 42 subsection (2)(a) (orders and directions effecting alternative officers arrangements);
- b. clause 43 (ownership removal orders);
- c. Part 6 (distribution of revenue);
- d. clause 65 (reports on clubs by expert reporters).

403.Subsection (5) defines the IFR's initial costs as being costs which are incurred by the IFR in preparation for, and in the exercise of, its functions before the first chargeable period.

404.Subsection (6) defines the Secretary of State's establishment costs as costs which are incurred by His Majesty's Government, relating to preparatory activity to operationalise the IFR ahead of it being a legal entity. These costs must be notified to the IFR as per clause 5.

405.Subsection (7) sets out the requirements the IFR must set out within its levy rules. These include requiring the IFR to:

- a. set out how it will estimate its operating costs for exercising leviable functions during a chargeable period;

- b. detail how it will calculate its actual operating costs for leviable functions during a chargeable period;
- c. set out how it will calculate an appropriate amount to raise as financial reserves during a chargeable period;
- d. set out how it will calculate its initial set up costs as defined in subsection 5.
- e. set out over how many chargeable periods it will recoup its initial costs and the Secretary of State's establishment costs;
- f. the maximum percentage of each of those costs that can be recovered over each of those periods;
- g. detail how the total amount chargeable for each chargeable period to fund the IFR will be divided between the football clubs who hold an operating licence;
- h. set out a process for administering and paying the levy.

406. Subsection (7)(h) will allow the IFR (amongst other provision) to specify the deadlines for levy payments, including any circumstances in which late payment is permissible.

407. Subsection (8) sets out that the levy rules may specify conditions which when met, mean that a club is not required to pay the levy. This would allow the IFR (for example) to specify that the levy is not payable where a club is licensed only for a small part of a chargeable period. Subsection (8) also sets out that the levy rules may make provision for interest to be charged, at a specified rate or to be calculated according to levy rules, on late levy payments.

408. Subsection (9) sets out that in order to ensure that levy payments charged to clubs are proportionate this subsection requires the IFR to divide the total amount chargeable in a chargeable period between clubs. When doing so it must take into account:

- a. the differing financial resources of each licensed club, which may include, but is not limited to club revenue, expenditure and a club's owner's financial circumstances;
- b. the relevant competition the licensed clubs participate in. This is to ensure that charges have regard to affordability.

409. Subsection (10) sets out that unpaid levy payments, including any interest, due to the IFR are recoverable as a civil debt.

410. Subsection (11) explains that a chargeable period is a rolling period of 12 months, starting from a date to be determined by the IFR by notice.

### Clause 53: Section 52: consultation and publication

411. Clause 53 requires the IFR to consult a named list, and whomever else it considers appropriate, before making its levy rules. It also requires the IFR to provide a draft of the levy rules during this consultation process subsection (2).

412. Subsection (3) details the specific information which the IFR is required to publish before a chargeable period starts. In respect of that period, this includes:

- a. IFR's estimated operating costs of leviable functions for the period;
- b. actual operating costs of leviable functions for the immediate previous chargeable period;
- c. the amount of any financial reserves which the IFR considers appropriate to raise during the period;
- d. the amount of any of the IFR's initial costs and the Secretary of State's establishment costs to be recovered in the period;
- e. the amount of the IFR's initial costs and the Secretary of State's establishment costs at the start of the period that are still to be paid back to the Exchequer;
- f. the amount each football club (licensed club) needs to pay for the chargeable period;
- g. any explanatory information on how all of these costs and amounts were calculated which the IFR considers is appropriate to publish.

413. Subsection (4) requires the IFR to publish notice of the start date for the first chargeable period.

## ***Duties on specified competition organisers***

### ***Clause 54: Duties to notify and consult the IFR***

414. Subsections 1 and 2 require specified competition organisers (a body that organises a specified competition as per clause 2) to notify the IFR in three circumstances and to set out the reasons for doing so:

- a. If the competition organiser thinks for any reason that there is a risk to either the IFR's club financial soundness, or its systemic financial resilience objectives;
- b. If the competition organiser has failed, or expects to fail, to comply with a commitment it made in lieu of a financial discretionary licence condition; and
- c. If the competition organiser considers that a club has breached, or suspects that a club has breached, a 'specified competition rule'. Subsection (9) defines a 'specified competition rule' as a rule of the organiser's specified competition that is relevant to the exercise of any of the IFR's functions under the Bill.

415. Subsection 3 requires a specified competition organiser to issue the notice as soon as reasonably practicable after it has become aware that it needs to notify the IFR.

416. Subsection 4 requires a specified competition organiser to also notify the IFR before a penalty, sanction, or any other requirement is imposed (either by the organiser itself or by any other person) on a club that has breached or is suspected of breaching any of its specified

competition rules (i.e. before disciplinary action is taken against the club). Per subsection 5, where the competition organiser does not notify the IFR before disciplinary action is taken, the organiser must still notify the IFR so as soon as reasonably practicable once the organiser has become aware that disciplinary action was taken.

417. Subsection 6 requires that notices under subsections 4 or 5 must explain why the penalty, sanction, or other requirement is being, or has been, imposed.

418. Subsection 7 requires specified competition organisers to consult the IFR before adding or removing specified competition rules, or amending a specified competition rule (but not if the amendment is minor). Subsection 8 outlines requirements for what any such consultation must include. Specifically (a) why the specified competition organiser is proposing to add, vary or remove the specific rule; and (b) a draft of any additional or varied rule.

## **Part 6: Distribution of revenue**

419. This Part sets out the IFR's targeted backstop powers to intervene in the distribution of revenue if necessary, referred to as the 'resolution process'. In summary, the 'resolution process' works as follows: the relevant leagues ("specified competition organisers") can apply to trigger the process if one of the following conditions is met: i) there is no distributions agreement in place between the relevant league ii) there has been a material reduction in the revenues received by the relevant league, iii) there has been a material change in circumstances affecting the relevant revenue, iv) a specified amount of time has passed since the last agreement was entered into. The process can then be commenced by the IFR but only if it has reasonable grounds to suspect that its ability to deliver its objectives would be jeopardised if the process was not triggered. Once the process has been commenced, a mediator will then be appointed to oversee a period of mediation; and, if no agreement is reached, the relevant parties move to the final proposal stage. At this stage, the IFR will form an independent expert committee, the relevant leagues will both present a final proposal, they will be granted the opportunity to make representations to the Expert Committee on the proposals and, then, the committee will choose the most appropriate proposal based on criteria set out in legislation.

### **Introduction**

420. This section sets out an overview of the resolution process, namely who can apply to trigger the process and what they can trigger the process in relation to.

### **Clause 55: Part 6: overview and interpretation**

421. Subsection (1) specifies that this Part makes provision for a 'specified competition organiser' to be able to apply to the IFR to trigger a resolution process. However, in order to future proof the process (e.g. if one of the leagues changes name or organisational structure), these 'specified competition organisers' will be identified according to whether or not they organise competitions specified in regulations made by the Secretary of State (as set out in the White Paper, it is envisaged that this would include the top five tiers of the English men's football

pyramid). Under this process, the relevant specified competition organisers are required to enter into a period of mediation about the distribution of relevant revenue received by one of them and, if they are unable to reach an agreement, the IFR may make an order as to the distribution of that relevant revenue.

422. Subsection (2) specifies that 'relevant revenue' is defined as broadcast revenue but the Secretary of State can specify other types of revenue as 'relevant revenue' in regulations in the event of a material change of circumstances to revenue streams. This is in order to future proof the policy so that if the specified competition organisers' predominant source of income shifts away from broadcast revenue, e.g. if the structure of the industry shifts and leagues derive the majority of their revenues from the sale of other goods, services or rights, then what is classified as relevant revenue can be updated so the revenue in scope of the resolution mechanism remains relevant.

423. Subsection (2) also specifies that relevant revenue excludes 'parachute payments', defined as payments made directly to newly relegated clubs.

424. However, as set out in subsection (3) the Secretary of State must consult with the specified competition organisers, the IFR and the Football Association before utilising the regulation-making power discussed above. In addition, as set out in subsection (4), the Secretary of State cannot use the regulation making-power unless there has been a material change in circumstances affecting the relevant revenue.

425. Subsections (5), (6) and (7) define key terms for the purposes of the Part.

## ***Applications for resolution process to be triggered***

### ***Clause 56: Applications for resolution process to be triggered***

426. This clause sets out further details on the circumstances under which the specified competition organisers can apply to trigger the process.

427. Subsection (1) specifies a specified competition organiser may apply to the IFR to trigger the resolution process where one or more questions, relating to the distribution of relevant revenue received in respect of one or more qualifying seasons, have arisen between itself and another specified competition organiser.

428. Subsection (2) specifies that a specified competition organiser may only apply to the IFR to trigger the resolution process (as per subsection (1)) if one of the following conditions are met in relation to a qualifying football season(s).

429. Subsection (3) specifies that Condition 1 is met in relation to a qualifying season if there is no distribution agreement in force (or distribution order in effect) between the two specified competition organisers.

430. Subsection (4) specifies that Condition 2 is met in relation to a qualifying season if there has been a material reduction in the amount of relevant revenue received by a specified competition organiser since either the last distributions agreement between the two parties or



since the last distribution order was made. This is intended to capture a situation where one specified competition organiser is distributing less relevant revenue to another specified competition organiser.

431. Subsection (5) specifies that Condition 3 is met in relation to a qualifying season if there has been or will be a material change in circumstances to relevant revenue streams (either since the last agreement between the two parties or since the last distribution order was made).

432. Subsection (6) specifies that Condition 4 is met in relation to a qualifying football season if: there is a distribution agreement in force; it has been in force for at least the 'applicable period'; and, there is no distribution order in effect.

433. Subsection (7) specifies that where the specified competition organisers have agreed a period for the purposes of Condition 4 and jointly notified the IFR of that agreement, then that is the 'applicable period' for the purposes of Condition 4.

434. Subsection (8) specifies that, in any other case, the 'applicable period' is 5 years.

### Clause 57: Applications under section 56: procedural and other requirements

435. This clause describes the process for applying to trigger the resolution process.

436. Subsection (1) specifies that before applying to trigger the resolution process, the notifier (i.e. the specified competition organiser applying to trigger the process) must notify the other specified competition organiser ('the respondent') of their intention to apply to trigger the process. The IFR must be copied into the correspondence.

437. Subsection (2) specifies that that notification must: specify the qualifying football season(s) to which the application relates; explain why the notifier considers at least one of the conditions set out in clause 56 is met; set out details of the question(s) for resolution; invite the respondent to make representations about the notification; and, specify the means by which, and the period within which, the representations must be made.

438. Subsections (3) and (4) specify the timescales.

439. Subsection (5) specifies what an application to the IFR to trigger the process must contain. In particular, it must specify the qualifying season(s) the application relates to, explain why they consider at least one of the conditions in clause 56 is met, set out the details of the question(s) for resolution and include any representations made by the respondent.

### Clause 58: Decision by the IFR on applications under section 56

440. This clause sets out how the IFR assesses the application to trigger the resolution process.

441. Subsection (1) specifies that where a specified competition organiser applies to trigger the resolution process, the IFR must decide whether to trigger the resolution process.

442. Subsection (2) specifies that the IFR can only trigger the process if (i) at least one of the conditions described in the above clause 56 is met and (ii) it has reasonable grounds to suspect that its ability to advance its objective(s) would be jeopardised if the resolution process were

not triggered. As set out in clause 6, the IFR's three objectives are to: protect and promote the financial soundness of regulated clubs; protect and promote the financial resilience of English football; safeguard the heritage of relevant clubs. However, only the club financial soundness and systemic financial resilience objective will be relevant in this context.

443. Subsection (3) specifies that in deciding whether the resolution process should be triggered, the IFR may have regard to the purposes for which the distributed revenue would be used. For instance, it is not intended that the resolution process should be used to determine distributions to grassroots football, community spending, women's football, youth development and player pensions.

444. Subsection (4) specifies that in deciding whether the resolution process should be triggered in reliance to Condition 1 (as per clause 56 subsection (3)), the IFR may have regard to whether the situation (of there being no agreement in force) has arisen as a result of bad faith.

445. Subsection (5) specifies that if the IFR decides that the resolution process should be triggered, it must notify the two parties and give reason for its decision. This notice must also set out the qualifying season(s) to which the resolution process will relate and the question(s) for resolution. Following this, the resolution process (set out in the next subsection) begins.

446. Subsection (6) specifies that if the IFR decides that the resolution process should not be triggered, then it must notify the relevant parties and provide reasons for its decision.

447. Subsections (7) and (8) specify the timescales.

## **Resolution process**

### **Clause 59: The mediation stage**

448. Subsection (1) specifies that this section (the mediation stage) applies when the IFR decides that the resolution process should be triggered (see clause 58 above).

449. Subsection (2) specifies that, during the mediation stage, the two specified competition organisers must appoint a mediator within 14 days.

450. Subsection (3) specifies that if the two specified competition organisers cannot appoint a mediator in the above timeframe, the IFR must appoint a mediator.

451. Subsection (4) specifies the timescales.

452. Subsection (5) specifies that if the IFR appoints a mediator, it must be someone with the required skills and experience.

453. Subsection (6) specifies that the mediation stage ends if: the specified competition organisers reach an agreement; the specified competition organisers agree to end the mediation stage and move to the final proposal stage; the mediator notifies the specified competition organisers that it either considers that there are no reasonable prospects of resolving the question(s) through mediation or that either of the specified competition organisers is acting in bad faith; or the time limit is reached.

454. Subsection (7) specifies that if the mediator notifies the specified competition organisers that it considers either that there are no reasonable prospects for reaching an agreement or that either of the specified competition organisers is acting in bad faith, it must include the reasons for its decision in the notification.

## Clause 60: Final proposal stage

455. Subsection (1) specifies that where no agreement is reached during the mediation stage, the relevant parties would move to the final proposal stage.

456. Subsection (2) specifies that during the final proposal stage, the IFR must form a committee of independent experts (“the Expert Committee”) from its Independent Expert Panel (See Schedule 2 The Independent Football Regulator) as soon as is reasonably practicable.

457. Subsection (3) specifies that, once established, the Expert Committee must give notice to the two specified competition organisers.

458. Subsection (4) specifies that this notice must: specify the qualifying football season(s) in question; set out the question(s) for resolution; invite the specified competition organisers to each submit a final proposal for how that question(s) should be resolved; require any proposal to be accompanied by supporting evidence; specify the day on which the final proposals are to be submitted; and state the period by which the committee must make a decision (see clause 61 below).

459. Subsection (5) specifies that the Expert Committee may specify the form and manner in which the final proposals (and supporting evidence) must be submitted. This will allow the Expert Committee to ensure that the two proposals are more comparable in terms of their content, structure and scope, as well as allowing them to specify a preferred format for the proposal (for instance, specifying a document-type and a page limit) or how the proposal should be delivered.

## Clause 61: Distribution orders

460. Subsections (1) and (2) specify how the Expert Committee will choose between final proposals.

461. In determining which of the two offers is most appropriate, the Expert Committee would broadly assess which proposal addresses the relevant issue(s) in a way that is most consistent with the principles set out in subsection (2). In making the assessment, the expectation would be that the Expert Committee would review the submissions made by both parties and the IFR, as well as the issues and analysis set out in the ‘State of the Game’ study (see above) and any other relevant evidence.

462. The principles against which the IFR must make its assessment are set out in subsection (2) - that the final proposal should advance its objectives, and should not place an undue burden on the commercial interests of either of the parties.

463. In addition, as per clause 7, the Expert Committee would also aim to minimise the impact on

sporting outcomes or competition in English football; the ability of English football clubs to compete with their overseas competitors; and sustainable investment into English football.

464. In terms of assessing which offer addresses the issue in line with the statutory test, the Expert Committee has discretion as to what it considers but it is expected that it would again consider the submissions made by the parties and the IFR, as well as the 'State of the Game' study.

465. Subsection (3) specifies that if only one party submits a final proposal, then the Expert Committee will choose this proposal.

466. Subsection (4) specifies that if neither party submits a final proposal, then the Expert Committee must terminate the process and notify both parties of this.

467. Subsection (5) and (6) specify the timescales within which the Expert Committee must reach a decision.

468. Subsection (7) then specifies that a distribution order will impose obligations on the specified competition organisers to ensure they act in accordance with the chosen final proposal. In addition, the distribution order may, where relevant, provide for an existing distributions agreement to have effect subject to the provision contained in the order.

469. Subsection (8) specifies that the committee must publish the order or a summary of the order as soon as reasonably practicable.

470. Subsection (9) specifies that when making its decision, the Expert Committee must give the specified competition organisers a notice: summarising the question(s) for resolution; including a copy of the order; explaining the reasoning behind the decision; as well as including information about the possible consequences of non-compliance (e.g. potential enforcement actions).

## Clause 62: Duration and revocation of distribution orders

471. This clause sets out that the Expert Committee will be able to specify when the distribution order comes into force (subsections (1) and (2)). Subsections (3) specifies that the IFR would then be able to revoke the distribution order in exceptional circumstances and subsection (4) specifies that where the specified competition organisers have reached a different agreement, the IFR must revoke the order. Subsections (5) and (6) specify that if the IFR chooses to revoke a distribution order, then it must notify the parties and include the reason for its decision. Subsection (7) specifies provisions in relation to the revocation of the distribution order.

## Miscellaneous

### Clause 63: Review of distribution orders, payment of costs, etc

472. Subsection (1) sets out that the IFR must also keep the distributions order under review in order to monitor whether the specified competition organisers are complying with the order and, if they are not, take enforcement action, as well as assessing whether it needs to revoke

the distribution order.

473. Subsection (2) sets out that the IFR may make rules about how costs incurred under this section (e.g. the appointment of a mediator or the Expert Committee) are to be paid.

474. Subsection (3) specifies that nothing in this Part affects the capacity of the specified competition organisers to reach an agreement privately, without the resolution process, or for such agreements from having effect or being enforced (subject to clause 61 subsection (7) above).

## **Part 7: Investigatory powers etc**

### **Information gathering**

#### **Clause 64: Power to require information**

475. This clause sets out the IFR's power to require information in relation to its functions, and the mechanism for obtaining that information.

476. Subsection (1) provides that the IFR may give a person an information notice requiring that person to give specified information to the IFR where it considers that the information is necessary for the purpose of exercising its functions. 'Specified information' is defined in subsection 4 of this section.

477. Subsection (2) sets out the information which must be included in an information notice. The IFR's information requests can be structured to ensure that information is gathered from clubs on an ongoing basis. This will enable effective 'real-time' monitoring of clubs' compliance and circumstances.

478. Subsection (3) clarifies that the IFR's power to require information also includes the power to take, or request that a person take, various related actions. For example, to take copies of information or to require the person to collect information.

#### **Clause 65: Reports on clubs by expert reporters**

##### **Appointment of an expert reporter**

479. This clause concerns the appointment of an expert reporter by the IFR, the exercise of powers by an expert reporter, and supplementary matters relating to expert reporters.

480. Per subsection (1), an expert reporter is a person appointed by the IFR to prepare a report in relation to a regulated club (i.e. operates a relevant team in a specified competition as per clause 2) on any matter that the IFR considers necessary for the exercise of its functions, and to provide this report to the IFR. Per subsection (3), the expert reporter must have the attributes necessary to provide a report on the matters concerned, and must not have a conflict of interest.

481. Subsection (2) sets out that, when the IFR appoints an expert reporter, it must notify the club of the details and the possible consequences of failing to cooperate with the expert reporter.

## Exercise of powers by an expert reporter

482. Subsection (4) details that an expert reporter may request information that is necessary for the preparation of its report from a person in much the same way as the IFR is empowered to by clause 64. The expert reporter would give the person a notice, requiring that person to provide the specified information.

483. Subsection (5) sets out the information that must be included in this information notice.

484. Subsection (6) clarifies that the expert reporter's power to require information also includes the power to take, or request that a person take, various related actions. For example, to take copies of information or to require the person to collect information.

## Supplementary

485. Subsection (7) provides that the person who receives an information notice from an expert reporter must cooperate with, and must give such reasonable assistance to, the expert reporter such as the expert reporter requests. This may include access to business premises, equipment, services, information and to individuals if required.

486. Subsection (9) gives the IFR the power to make rules providing for the costs incurred by it in appointing an expert reporter, or the expenses incurred by the appointed expert reporter, to be payable by the club concerned.

## **Investigations into relevant infringements**

### Clause 66: Meaning of "relevant infringement"

487. This clause signposts to Schedule 7, which lists the relevant infringements.

### Clause 67: Investigations

488. This clause sets out the investigatory powers available to the IFR and the mechanisms for conducting an investigation.

489. Subsection (1) allows the IFR to conduct an investigation where it has reasonable grounds for suspecting that a person has committed a relevant infringement (as defined in Schedule 7).

490. Subsection (2) signposts to Schedule 8 which sets out the powers available to the IFR when it conducts an investigation. Broadly, these are to interview individuals, and to enter premises under a warrant.

491. Subsections (3) and (4) require the IFR to issue an investigation notice as soon as reasonably possible when beginning an investigation. The investigation notice must set out:

- a. that the IFR has decided to conduct an investigation;
- b. the relevant infringement that the IFR has reasonable grounds for suspecting to have been committed;

c. an explanation of the matter to be investigated.

492. Subsections (5) and (6) state that the IFR may delay giving an investigation notice if it considers that giving the notice would harm the investigation. The IFR must give the investigation notice to the person concerned as soon as reasonably possible after the IFR no longer considers that issuing the notice would harm the investigation.

### Clause 68: Outcomes of investigations

493. This clause covers matters relating to the outcomes of an investigation. This clause does not apply if the IFR has already accepted a commitment in lieu of an investigation from the person to whom the investigation relates (per subsection (4)).

494. Subsection (1) sets out that the objective of an investigation is for the IFR to decide whether the person concerned has committed a relevant infringement, and whether they had a reasonable excuse for committing the infringement.

495. Subsection (2) sets out that, if the IFR finds there has been no infringement, or that there has been an infringement but it has decided not to take action for any reason (e.g. because the person had a reasonable excuse for committing the infringement), the IFR must give the person concerned a notice of closure of the investigation. Per subsection (3), a closure notice must state and explain the IFR's decision.

496. Subsection (5) signposts to Part 8, which sets out the process in cases where the IFR has decided that a person has committed a relevant infringement and is minded to take enforcement action as a result.

### Clause 69: Commitments in lieu of investigations

497. This clause sets out that the IFR may accept an appropriate commitment from a person during the course of an investigation into certain relevant infringements (listed in subsection (5)).

498. Per subsections (1) and (2), the IFR may accept a commitment from the person it is investigating, if it considers the commitment is appropriate. A commitment is appropriate if the IFR considers that the person's compliance with the commitment would mean that the IFR no longer needs to continue its investigation into the behaviour in question. Per subsection (3)(b), the person who gave the commitment must comply with it for the duration it is in effect.

499. Subsection (3) explains that where the IFR accepts a commitment under this section, it may not take enforcement action (under Part 8) in respect of the relevant infringement it was investigating. However, subsection (4) sets out that accepting a commitment does not prevent the IFR from continuing an investigation into different behaviour in relation to the same or a different relevant infringement, or starting a new investigation in relation to the same behaviour to which the commitment relates.



500.Subsection (6) sets out that nothing in this clause prevents the IFR from using its power to attach or vary a discretionary licence condition to an operating licence (clause 21), even where that condition relates to the behaviour to which a commitment relates.

## Clause 70 Section 69: Supplementary

501.Subsection (1) sets out that the IFR must give the person a notice as soon as reasonably possible after it decides to accept, or not to accept, a commitment in lieu of investigation; and sets out what the notice should state.

502.Subsection (2) sets out when the commitment comes into force, and when it ceases to have effect.

503.Subsection (3) sets out that the IFR may accept a variation to a commitment, provided the varied commitment would still be appropriate. The requirements in subsections (1) and (2) also apply to a variation of a commitment.

504.Subsections (4) and (5) set out that the IFR may release a person from a commitment and must give the person a notice as soon as reasonably possible after deciding to do so.

505.Subsection (6) sets out that the IFR may take action in relation to a failure to comply with an accepted commitment, even after the commitment ceases to have effect.

506.Subsection (7) sets out the matters that the IFR must keep under review:

- a. compliance with an accepted commitment;
- b. the appropriateness of the commitment;
- c. whether a commitment should be replaced by a discretionary licence condition;
- d. and whether it should take enforcement action (under Part 8) if a person fails to comply with a commitment.

507.Under subsection (8), the IFR has a discretion to publish notices relating to commitments.

## Clause 71: Duty to preserve information

508.This clause places a duty on any person who knows, or suspects, an investigation is ongoing or likely to take place, to preserve information that the person knows or suspects would be relevant to the investigation. This means the person must not destroy, dispose of, falsify or conceal this relevant information, nor cause or permit the destruction, disposal, falsification, or concealment of the information.

## General

### Clause 72: Privileged communications

509.This clause sets out that the information and investigation powers in this Part of the Bill may



not be used to require a person to produce, generate, give, take possession of, or take copies of, or extracts from, a privileged communication. Subsection (3) defines a privileged communication as one that would be protected from disclosure on grounds of legal professional privilege in proceedings in the High Court

### Clause 73: Requirement to publish certain notices etc

510. This clause requires the IFR to publish certain notices relating to investigations.

## Schedule 7: Meaning of “relevant infringement”

511. This Schedule sets out the cases in which a person commits a “relevant infringement” for the purposes of this Bill. Relevant infringements are the various possible breaches of requirements imposed by the Bill or by the IFR under the Bill, which can be investigated and enforced against.

512. Paragraphs 2-6 set out the relevant infringements that can be committed by a club, an owner of a club, an officer of a club, senior managers of a club, and specified competition organisers.

513. Paragraph 7 sets out the cases in which any other person who is not a club, owner, officer, senior manager, or specified competition organiser commits a relevant infringement.

## Schedule 8: Investigatory powers

### Application of this Schedule

514. This Schedule is applicable where the IFR decides to conduct an investigation into whether a person has committed a relevant infringement.

### Power to ask questions

515. Paragraph 2 sets out that the IFR may give any person an interview notice requiring the person to answer questions that relate to any matter relevant to the investigation. An interview notice must include certain information, including: details of the investigation; the place at which, or the manner in which, a person is to answer the questions; the time at which a person is to answer the questions; and information about the possible consequences of not complying.

### Power to enter business premises under a warrant

516. Paragraph 3 sets out the power of the IFR to enter business premises under a warrant, and the actions that the IFR’s officers can take having entered business premises under warrant.

517. Per paragraph 3 sub-paragraph (1), the court or Tribunal may issue a warrant to the IFR on application, if it is satisfied that there are reasonable grounds for suspecting that information relating to an investigation can be found in any business premises.

518. Per paragraph 3 sub-paragraph (2), a warrant authorises a named officer of the IFR (“the

authorised officer”), and any other of the IFR’s officers whom the IFR’s board has authorised in writing to accompany the authorised officer, to undertake a number of actions. Among other things, this includes:

- a. entering the specified premises;
- b. using such force as is reasonably necessary;
- c. taking onto the premises such equipment as necessary;
- d. and searching the premises for relevant information.

519.Paragraphs 3 sub-paragraphs (3) to (9) and paragraph 4 set out various procedural requirements and other matters related to the exercise of powers under a warrant.

## **Part 8: Enforcement**

### ***Sanctions and offences etc***

#### **Clause 74: Sanctions**

520.This clause sets out the enforcement action that the IFR may take in different circumstances, by reference to the available civil sanctions set out in Schedule 9.

521.Per subsections (1) and (2), Part 1 of Schedule 9 sets out the actions that the IFR may take where it determines that a person has failed to comply with an information requirement (under clause 64, clause 65, or clause 71, or Schedule 8), or where the IFR is satisfied beyond reasonable doubt that a person has committed an information offence (under clause 77).

522.Per subsection (3), Part 2 of Schedule 9 sets out the actions the IFR may take where it determines, whether as a result of an investigation or otherwise, that a person has committed a relevant infringement. Per subsection (4), Part 3 of Schedule 9 sets out further detail in relation to the financial penalties that the IFR may impose under Parts 1 and 2.

523.Subsection (5) provides that civil sanctions cannot be imposed in addition to criminal sanctions. So, if a person has already been found guilty of an offence under clause 77, the IFR may not impose a civil sanction under Schedule 9 in relation to the same behaviour.

524.Subsections (6), (7) and (8) relate to which functions of the IFR are exercisable by a committee of the Expert Panel on the IFR’s behalf (paragraph 19, Schedule 2), and make provision for the procedure around this. The functions are: publishing a censure statement; imposing a financial penalty; or appointing a skilled person. The IFR must notify the CEO if it delegates these functions to the Expert Panel. The CEO must establish a committee of the Expert Panel to exercise the function as soon as reasonably possible.

525.Subsection (9) states that the IFR may not take enforcement action in relation to a club where it revokes the club’s provisional operating licence (under clause 19). Only the club’s senior managers can be subject to sanctions if a club commits this relevant infringement without reasonable excuse.

## Clause 75: Warning notices

526. This clause relates to warning notices issued by the IFR.

527. When the IFR is minded to take enforcement action in relation to a person (under clause 74 and Schedule 9), the IFR must first give the person a warning notice as detailed in subsections (1) - (3). The warning notice must detail the action the IFR is minded to take and why it is minded to take it, state whether the decision will be taken by the Board or a committee of the Expert Panel, and invite the person to make representations.

528. The IFR must have regard to any representations received as per subsection (4), and may not take enforcement action (under clause 74 and Schedule 9) until the period to make representations has expired.

## Clause 76: Decision notices

529. This clause relates to decision notices issued by the IFR.

530. As soon as reasonably possible after the period to make representations on the warning notice has expired, the IFR must determine whether to take enforcement action (under clause 74 and Schedule 9) and give the person a decision notice (subsection (1)). The decision notice must include and explain the action that the IFR is taking (or that it is not taking action), whether the decision was made by the Board or a committee of the Expert Panel, and what action (if any) the person is required to take and by when (subsection (2)).

531. Per subsection (3), the action that the IFR states it is taking in the decision notice does not need to be the same as the action it stated in the warning notice, except in the case of suspension or revocation of operating licence (under paragraph 9 of Schedule 9). The IFR may only suspend or revoke an operating licence in the decision notice if that was the action it stated it was minded to take in the warning notice.

532. Subsections (4) and (5) set out that, if the IFR considers that the enforcement action stated in a decision notice has been ineffective, it may take further action (in accordance with clause 74 and Schedule 9). This means, if a sanction does not have the intended effect, the IFR may impose further sanctions on a person in relation to the same relevant infringement. The IFR would need to issue a warning notice and a decision notice in respect of any further action.

## Clause 77: Offences

### Destroying or falsifying information

533. Subsection (1) creates an offence in relation to destroying or falsifying relevant information and sets out the elements of the offence. Subsection (2) defines "relevant information" in subsection (1) as information the person is required, under or by virtue of this Bill, to give to the IFR or to an expert reporter (appointed under clause 65).

### False or misleading information

534.Subsections (3) and (4) create offences in relation to the provision of false or misleading information and set out the elements of the offences.

### Obstruction

535.Subsection (5) creates an offence in relation to obstruction of the IFR. A person commits an offence if that person intentionally obstructs an officer of the IFR when they are acting in the exercise of the officer's powers under a warrant issued under paragraph 3 of Schedule 8 of the Bill.

### Penalties

536.Subsection (6) sets out that a person guilty of an offence under this clause may be found guilty on summary conviction or on conviction on indictment (not both). If a person is subject to summary conviction they would be subject to imprisonment for a term not exceeding the general limit in a magistrate's court, or to a fine, or both imprisonment and a fine. If a person is convicted on indictment then they could be subject to up to two years' imprisonment, or to a fine, or both imprisonment and a fine.

### Interaction with sanctions under section 74

537.Subsection (7) sets out that if the IFR has already imposed a civil sanction on a person, the person may not also be found guilty of an offence in relation to the same act or omission and so cannot also be subject to a criminal sanction.

## **Urgent directions**

### Clause 78: Urgent directions

538.This clause relates to urgent directions issued by the IFR.

539.The IFR may issue an urgent direction when a person has (without reasonable excuse) committed a relevant infringement, the infringement is continuing, and it jeopardises or immediately risks jeopardising the IFR's ability to advance one or more of its objectives (subsection (1)). Essentially, this means there is an ongoing infringement that is sufficiently urgent and serious that it warrants immediate enforcement action.

540.An urgent direction is such direction as the IFR considers appropriate to bring the ongoing relevant infringement to an end (subsection (2)). For example, this might be to take or to cease a certain action(s). Per subsection (4), the period for which a person might be required to take, or be prohibited from taking, an action may be indefinite.

541.Subsection (3) explains what an urgent direction must include.

542.Subsections (5) to (7) set out that the IFR may vary or revoke an urgent direction and, if it varies a direction, it must first invite representations from the person.

543.Per paragraph 7 of Schedule 9, the IFR may seek injunctive relief if a person fails to comply with an urgent direction.

## **Publication**

### Clause 79: Requirement to publish certain notices etc

544. This clause requires the IFR to publish certain notices relating to enforcement action.

## **Schedule 9: Sanctions**

### **Part 1: Sanctions relating to information etc**

#### Introduction

545. Paragraph 1 sub-paragraph (1) provides that paragraphs 2 and 3 of this Schedule apply in relation to a person failing to comply with an information requirement (under clause 74 subsection (2)) or committing information offences (under clause 77).

#### Censure statements

546. Paragraph 1 sets out that the IFR may prepare and publish a censure statement. This is a statement by the IFR publicly expressing their disapproval regarding a person's failure to comply with an information requirement or a person committing an information offence.

547. The censure statement must explain why the IFR has determined the person has failed to comply with the information requirement or committed the offence, and why the IFR considers it appropriate to publish a censure statement.

#### Financial penalties

548. Paragraph 3 provides that the IFR may impose a financial penalty on a person of an amount it considers appropriate, provided it does not exceed the maximum amount set out in the appropriate sub-paragraphs (5) - (9). The penalty must be a single fixed amount, an amount calculated by reference to a daily rate, or a combination of a fixed amount and a daily rate (sub-paragraph (4)). The IFR may reduce the amount of penalty if the penalty is paid before the date specified by the IFR in the decision notice (sub-paragraph (3)).

549. Sub-paragraph (5) provides that the maximum amount of a penalty that may be imposed on a club or a competition organiser is:

- a. 10% of the club or organiser's total revenue (for a fixed amount penalty); or
- b. 10% of the club or organiser's daily revenue (for a daily rate penalty); or
- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

550. Sub-paragraph (6) provides that the maximum amount of a penalty that may be imposed on a body that is not a regulated club (i.e. operates a relevant team in a specified competition as per clause 2) but has been a regulated club is:

- a. in the case of a fixed amount penalty, the higher of: i) 10% of the body's total revenue, and ii) £75,000; or
- b. in the case of a daily rate penalty, for each day the higher of i) 10% of the body's daily revenue, and ii) £25,000; or
- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

551. Sub-paragraph (7) provides that the maximum amount of penalty that may be imposed on an owner of a club (including where the owner is also a senior manager or other officer of the club) is:

- a. 10% of the club's total revenue (for a fixed amount penalty); or
- b. 10% of the club's daily revenue (for a daily rate penalty); or
- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

This means the maximum penalty applicable to an owner is calculated by reference to the revenue of the club they own.

552. Per sub-paragraph (10), any reference to revenue in sub-paragraphs (5) - (7) includes revenue generated both inside and outside of the UK.

553. Sub-paragraph (8) provides that the maximum amount of penalty that may be imposed on an officer of a club (including where the officer is a senior manager of the club, but not where the officer is also an owner of the club) is:

- a. in the case of a fixed amount penalty, the higher of: i) 10% of the officer's total remuneration, and ii) £75,000; or
- b. in the case of a daily rate penalty, for each day the higher of i) 10% of the officer's daily remuneration, and ii) £25,000; or
- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

554. Sub-paragraph (9) provides the maximum penalty in any case other than those set out in sub-paragraphs (5) - (8). The maximum amount of a penalty that may be imposed on any person that is not a club, competition organiser, owner or officer is:

- a. in the case of a fixed amount, £75,000; or
- b. in the case of a daily rate penalty, £25,000 per day; or

- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

555. Sub-paragraph 10 provides that where a club or body is part of a wider corporate group, the references to the revenue of the club or body in sub-paragraphs (5) - (7) are to the revenue of the group as a whole.

## **Part 2: Sanctions relating to relevant infringements**

### **Censure statements**

556. Paragraph 4 sets out that the IFR may prepare and publish a censure statement, where it determines that a person has, without reasonable excuse, committed a relevant infringement. This is a statement by the IFR publicly expressing their disapproval regarding a person committing a relevant infringement.

557. The censure statement must explain why the IFR has determined the person has committed the relevant infringement, and why the IFR considers it appropriate to publish a censure statement.

### **Appointment of a skilled person**

558. Paragraph 5 provides that, where the IFR determines that a club has, without reasonable excuse, committed a relevant infringement and the infringement is continuing, the IFR may require a club to appoint a skilled person. A skilled person is a person nominated by the IFR, who has the skills necessary to assist the club in bringing the infringement to an end and does not have any conflict of interest (sub-paragraphs (2) and (3)).

559. Per sub-paragraph (4), the club concerned must cooperate with an appointed skilled person and give them such reasonable assistance as the skilled person requests. This includes giving the skilled person access to business premises, equipment, services, information and individuals, all in the interests of bringing an infringement to an end.

### **Financial penalties**

560. Paragraph 6 provides that, where the IFR determines that a person has, without reasonable excuse, committed a relevant infringement, it may impose a financial penalty on that person. Per sub-paragraphs (2)-(3), the IFR may impose a penalty of such amount as it considers appropriate, provided it does not exceed the maximum amount set out in the appropriate sub-paragraphs (6) - (10). The penalty must be a single fixed amount, an amount calculated by reference to a daily rate, or a combination of a fixed amount and a daily rate (sub-paragraph 5)). The IFR may reduce the amount of penalty if the penalty is paid before the date specified by the IFR in the decision notice (sub-paragraph (4)).

561. Sub-paragraph (6) provides that the maximum amount of a penalty that may be imposed on a club or a competition organiser is:

- a. 10% of the club or organiser's total revenue (for a fixed amount penalty); or
- b. 10% of the club or organiser's daily revenue (for a daily rate penalty); or
- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

562. Sub-paragraph (7) provides that the maximum amount of a penalty that may be imposed on a body that is not a regulated club (i.e. operates a relevant team in a specified competition as per clause 2) but has been a regulated club is:

- a. in the case of a fixed amount penalty, the higher of: i) 10% of the body's total revenue, and ii) £75,000; or
- b. in the case of a daily rate penalty, for each day the higher of i) 10% of the body's daily revenue, and ii) £25,000; or
- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

563. Sub-paragraph (8) provides that the maximum amount of penalty that may be imposed on an owner of a club (including where the owner is also a senior manager or other officer of the club) is:

- a. 10% of the club's total revenue (for a fixed amount penalty); or
- b. 10% of the club's daily revenue (for a daily rate penalty); or
- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

This means the maximum penalty applicable to an owner is calculated by reference to the revenue of the club they own.

564. Per sub-paragraph (11), any reference to revenue in sub-paragraphs (6) to (8) includes revenue generated both inside and outside of the UK.

565. Sub-paragraph (9) provides that the maximum amount of penalty that may be imposed on an officer of a club (including where the officer is a senior manager of the club, but not where the officer is also an owner of the club) is:

- a. in the case of a fixed amount penalty, the higher of: i) 10% of the officer's total remuneration, and ii) £75,000; or
- b. in the case of a daily rate penalty, for each day the higher of i) 10% of the officer's daily remuneration, and ii) £25,000; or
- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the



amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

566. Sub-paragraph (10) provides the maximum penalty in any case other than those set out in sub-paragraphs (6) - (9). The maximum amounts of a penalty that may be imposed on any person that is not a club, competition organiser, owner or officer is:

- a. in the case of a fixed amount, £75,000; or
- b. in the case of a daily rate penalty, £25,000 per day; or
- c. in the case of a combination of a fixed amount penalty and a daily rate penalty, the amounts mentioned in paragraph (a) for the fixed amount, and paragraph (b) for the daily rate.

567. Sub-paragraph (11) provides that where a club or body is part of a wider corporate group, the references to the revenue of the club or body in sub-paragraphs (6) - (8) are to the revenue of the group as a whole.

## Injunctive relief

568. Paragraph 7 sets out that the IFR may apply to the Tribunal for an injunction where the IFR determines that a person has, without a reasonable excuse, committed a relevant infringement specified in sub-paragraph (2); and that the relevant infringement is continuing.

569. An injunction is a legal remedy from a court or tribunal requiring a person to take an action or to cease an action. The injunction sought under this paragraph would be to bring the relevant infringement in question to an end.

570. Only a subset of all possible relevant infringements are specified in sub-paragraph (2). This means the IFR cannot directly seek injunctive relief in response to any relevant infringement. The relevant infringements that the IFR can directly seek injunctive relief in response to include, among others, a club operating a relevant team without a licence and a person failing to comply with an urgent direction.

571. Per sub-paragraph (4), rules made under section 15 of the Enterprise Act 2002 (Tribunal rules) may make provision about the transfer of applications for injunctive relief to be transferred from the Tribunal to the High Court.

## Suspension or revocation of operating licence

572. Paragraphs 8 and 9 empower the IFR to suspend or revoke a club's operating licence (either provisional or full) where the IFR determines that the club has, without reasonable excuse, committed a relevant infringement and one or more of the three aggravating conditions are met.

573. The aggravating conditions, set out in paragraph 8, sub-paragraphs (2) to (4), are:

- a. the relevant infringement is intentional and persistent, and the IFR has already taken

enforcement action and considers that there is no further enforcement action it could take to bring the infringement to an end;

- b. the club has intentionally and persistently failed to cooperate with the IFR in relation to an investigation into the relevant infringement, and the IFR has already taken enforcement action and considers that there is no further enforcement action it could take to bring the infringement to an end; and
- c. that the relevant infringement jeopardises the IFR's ability to advance one or more of its objectives.

574. When the IFR suspends an operating licence, it must specify in the decision notice the day on which the suspension takes effect, and the period for which the suspension will last (which may be until a specified event, such as further notice by the IFR). When the IFR revokes an operating licence it must specify the day it takes effect from. For both suspension and revocation, the day specified from which they take effect may not be during a football season. Where the IFR issues a decision notice during the football season, the date in the notice may not be a date before the end of that season.

575. Per paragraph 9, sub-paragraph (4), the IFR may suspend again, or revoke, an operating licence after a previous suspension has come to an end.

### **Part 3: Further provision about financial penalties**

#### **Interpretation**

576. Paragraph 10 defines various terms for the purpose of this Schedule, including 'undertaking', 'group' and 'subsidiary'.

#### **Penalties imposed by reference to a daily rate**

577. Paragraph 11 sets out parameters for the IFR when imposing a financial penalty (under paragraphs 3 and 6) by reference to a daily rate. These are that:

- a. the earliest date the penalty can start accumulating from is the day on which the person receives a warning notice; and
- b. the latest the penalty must stop accumulating is the day on which the conduct giving rise to the penalty ceases.

578. The decision notice issued by the IFR must state the day on which the amount first starts to accumulate and the day or days on which it might cease to accumulate.

#### **Revenue and remuneration**

579. Paragraph 12 sets out that the IFR may make rules that make provision for determining:

- a. a person's total and daily revenue; and
- b. an officer's remuneration and daily remuneration, for the purposes of financial

penalties (under paragraphs 3 and 6).

580. These are known as ‘revenue rules’.

581. Sub-paragraph (2) sets out a non-exhaustive list of what revenue rules may set out, including: what is included and excluded from a person’s revenue or an officer’s remuneration, and the period(s) over which a person’s revenue or an officer’s remuneration is to be calculated.

582. Per sub-paragraphs (3) and (4), before the IFR makes, amends, or replaces revenue rules it must consult the Secretary of State on a draft of the proposed rules.

## Interest

583. Paragraph 13 sets out that interest accrues on the unpaid balance of any late financial penalty (meaning where some or all of a penalty is not paid by the day by which it is required to be paid), at an annual percentage rate of 5% plus the Bank of England base rate. However, the IFR may waive the interest on a penalty by notice to the person on whom the penalty is imposed.

584. Sub-paragraph (3) explains what the Bank of England base rate means.

## Recovery as a civil debt

585. Paragraph 14 sets out that where some or all of a financial penalty has not been paid by the required day, the IFR may recover the penalty, or any amount of the penalty, plus interest from the person as a civil debt.

## Power to amend figures

586. Paragraph 15 sets out the Secretary of State’s power to amend by regulations the fixed financial penalties in paragraphs 3 and 6 that are expressed as absolute amounts in pound sterling.

# **Part 9: Reviews and appeals**

## Clause 80: Reviewable decisions etc

587. This clause sets out which decisions of the IFR can be reviewed, who may request a review, and who conducts reviews.

588. Subsection (1) sets out that, when a reviewable decision is made by the IFR, the IFR must notify the people who are directly affected of their right to request an internal review and their right to appeal to the Tribunal, as soon as reasonably practicable.

589. Subsection (2) sets out the meaning of a “concerned person”, which is a person who appears to the IFR to be directly affected by the decision. It also sets out the definitions of a “reviewable decision” and an “applicable reviewer”. Both of these terms are defined by reference to the table in Schedule 10.

## Clause 81: Internal reviews

590. This clause details the process for conducting an internal review. An internal review is where an applicable reviewer in the IFR reconsiders a reviewable decision, following a request by a concerned person.
591. Subsection (1) sets out that, where the IFR makes a reviewable decision (as listed in the table in Schedule 10), any concerned person may require the IFR to review the decision. As per clause 80, the IFR determines whether the person satisfies the definition of “concerned person”.
592. Subsection (2) sets out that an internal review may not be requested where an application for appeal has already been made to the Tribunal. For the majority of reviewable decisions, an internal review is a prerequisite before making an application for appeal to the Tribunal. However, there are some reviewable decisions in relation to which an internal review is not a prerequisite. These are set out in subsection (2) of clause 83.
593. Subsection (3) sets out that an application for internal review must be made by the concerned person within seven days of the date specified in the notice of their right to request a review.
594. Subsection (4) requires that, where the reviewer is to be a committee of an Expert Panel, the CEO of the IFR must establish a committee to carry out the review as soon as reasonably possible after the internal review is requested.
595. Subsection (5) sets out that, where the applicable reviewer is a committee of the Expert Panel and the original decision was also made by a committee of the Expert Panel, any member of the Panel who took part in the decision cannot take part in the review.
596. Subsection (6) sets out that, where the applicable reviewer is the Board and the original decision was also made by the Board, any member of the Board who took part in the decision cannot take part in the review.
597. Subsection (7) sets out that, as the default, a decision has immediate effect rather than being suspended pending the outcome of an internal review. But the applicable reviewer has the discretion to give a direction suspending the effect of a decision until the review is concluded, if they deem it necessary. However, subsection (8) lists a number of decisions the effect of which cannot be suspended pending the outcome of an internal review - these decisions must always come into force immediately and remain in force pending the outcome of appeal. For example, to give urgent directions, or to specify a competition as prohibited.
598. Subsection (9) gives the applicable reviewer discretion as to how best to perform an internal review on a case by case basis. The reviewer is required to have regard to any representations made by the concerned person.

## Clause 82: Decisions on internal reviews

599. Subsection (1) sets out the possible outcomes of an internal review. The applicable reviewer may either confirm (“uphold”), amend (“vary”), or reverse (“cancel”) the decision.

600. Per subsection (2), the IFR has a statutory deadline from the day on which the internal review was requested (if the reviewer is the Board), or the day on which the committee of the Expert Panel was established (if the reviewer is a committee of the Expert Panel), to complete and notify the concerned person(s) of the outcome of an internal review.

601. Subsection (3) allows the IFR to extend this deadline if there are special reasons for doing so. In practice this may be circumstances where more evidence is required or cases of greater complexity.

602. Per subsection (4), if a review exceeds the deadline specified (including any extension), then the internal review is to be considered as concluded and it is deemed by default that the decision of the internal review is to uphold the original decision. The IFR must notify the concerned person of this deemed decision.

603. Subsection (5) sets out that the conclusions of an internal review must be published as soon as reasonably possible.

### Clause 83: Appeals to the Competition Appeal Tribunal

604. This clause sets out procedural requirements in relation to reviews brought to the Tribunal. This includes who can bring an appeal, which decisions can be appealed to the Tribunal, how to submit notice of an appeal, and further routes of appeal.

605. Subsection (1)(a) outlines that, when the IFR makes a reviewable decision listed in subsection (2), a concerned person, or any other person with sufficient interest in the decision, may appeal directly to the Tribunal. Subsection (1)(b) sets out that, for all other reviewable decisions, an appeal cannot be made to the Tribunal until it has first been internally reviewed - the decision reviewed by the Tribunal then is the decision of the internal review. This means that if an affected party wishes to apply to the Tribunal for a review, an internal review is optional for the decisions listed in subsection (2) but is a mandatory prerequisite for all other reviewable decisions.

606. Subsection 2 outlines the reviewable decisions specified for the purposes of subsection (1)(a):

- a. revoking a provisional operating licence under clause 19;
- b. a deemed determination that a new owner or officer is not suitable to be an owner or an officer of a club as a result of the time period for the IFR to make a determination being exceeded under clause 32 subsection (5);
- c. a deemed determination that an incumbent owner is not suitable to be an owner of a club under clause 34;
- d. a deemed determination that an incumbent officer is not suitable to be an officer of a club under clause 35;
- e. making a disqualification order in respect of a person under clause 38;
- f. suspending or revoking an operating licence under paragraph 9 of Schedule 9.

607. Subsection (3) sets out that, in situations where a person has requested an internal review of any of the six decisions listed in subsection (2), that review must be allowed to reach a conclusion before an appeal to the Tribunal may be made.

608. Subsection (4) sets out that an application for appeal to the Tribunal must be made in accordance with the rules relating to the procedure of the Tribunal (“Tribunal Procedure Rules”). Per subsection (5), the appeal must be lodged within the time period specified in Part 5B of the Tribunal Procedure Rules.

609. Subsection (6) sets out that, as the default, a decision has immediate effect rather than being suspended pending the outcome of an appeal by the Tribunal. But the Tribunal has the discretion to give a direction suspending the effect of a decision until the appeal is concluded, if it deems it necessary. However, subsection (7) sets out a number of decisions the effect of which cannot be suspended by the Tribunal - these decisions must always come into force immediately and remain in force pending the outcome of appeal. This is done by reference to the same list of decisions as in clause 81 subsection (5).

610. Subsection (8) sets out that any party involved in a decision of the Tribunal may appeal to the Court of Appeal on a point of law. Subsection (9) adds that permission to appeal to the Court of Appeal must be granted by the Tribunal or the Court of Appeal.

## Clause 84: Proceedings before the Competition Appeal Tribunal

611. This clause sets out the standard of review which must be applied by the Tribunal on appeal.

612. Per subsection (1), the Tribunal is required to determine appeals in relation to certain decisions on the merits, by reference to the basis for appeal which the affected person set out in their notice of appeal. These are the same six decisions listed in clause 83 subsection (2). This subsection applies whether the decision is appealed directly to the Tribunal subsection (1)(a), or has first been internally reviewed subsection (1)(b). The available conclusions that the Tribunal is entitled to make following a review of a decision on the merits are listed in subsection (3). This includes the ability for the Tribunal to substitute the IFR’s decision with its own decision.

613. Under subsection (2) the Tribunal must determine an appeal of all other decisions on judicial review principles. The available conclusions that the Tribunal is entitled to make following a review of a decision on judicial review principles are listed in subsection (4). This includes quashing the decision and remitting it back to the IFR for reconsideration.

## Schedule 10: Reviews

614. This Schedule sets out which decisions of the IFR are reviewable and who will carry out the internal review for each decision. The first column of the table sets out a list of the decisions which may be internally reviewed and appealed to the Tribunal (the “reviewable decisions”). The second column sets out whether the internal review will be carried out by a committee of the Expert Panel, or by the Board. For the majority of reviewable decisions, the reviewer will

be a committee of the Expert Panel.

## **Part 10: General**

### **Disclosure of information**

#### **Clause 85: Disclosure of information by the IFR**

615. This clause sets out the arrangements for the disclosure of information by the IFR.

616. Subsection (1) sets out that the IFR may disclose information held in connection with its functions under the Bill to:

- a. the bodies listed under subsection (2) for the purpose of facilitating the exercise of those bodies' functions;
- b. and the bodies listed under subsection (3) for a specific purpose connected with the exercise of the IFR's functions.

617. Subsection (4) sets out that the IFR's disclosure of information under this section does not breach any obligation of confidence owed by the IFR, and does not breach any other restriction on the disclosure of information, subject to the restrictions in clause 86.

618. Subsection (5) sets out that the information disclosed under subsection (1) must not be used for a purpose other than the purpose mentioned in subsection (1)(a) or (b) or further disclosed, unless that use or disclosure is required by other legislation or is made under a court order.

619. Subsection (6) gives the Secretary of State the power to amend subsections (2) or (3) by regulations to add, remove, or vary the persons to whom the IFR may disclose information.

#### **Clause 86: Disclosure of information to the IFR etc**

620. This clause sets out the arrangements for the disclosure of information to the IFR.

621. Subsection (1) empowers His Majesty's Revenue and Customs (HMRC) to disclose information to the persons listed in subsection (2). These are: the IFR, a trustee appointed under clause 43 (in the event an owner is removed from a club), and an expert reporter appointed under clause 65.

622. The disclosure of information to any of the persons in subsection (2) does not breach any obligation of confidence owed by the person, and does not breach any other restriction on the disclosure of information, subject to the restrictions in clause 87.

623. Per subsection 4, the Secretary of State can make regulations to enable a public authority to disclose information to any of the persons in subsection (2) for the purpose of their functions under the Bill.

624. Subsection (5) defines 'public authority' by reference to the Human Rights Act 1998.



625. Subsection (6) explains that regulations made under subsection (4) may amend, repeal or revoke provision made by or under an Act whenever passed or made (including provision made by or under this Bill).

## Clause 87: Restrictions on the disclosure of information

626. This clause sets out the restrictions on the disclosure of information by and to the IFR.

627. Subsections (1) and (2) set out that any duty or power to process information imposed or conferred under the Bill does not require or authorise the processing of information that would contravene the data protection legislation (but the duty or power is to be taken into account in determining whether the processing would contravene that legislation).

628. Subsections (3) to (5) set out that, for any duty or power conferred to publish or otherwise disclose information, a person to whom clause 86 subsection (2) applies (which is: the IFR a trustee appointed by an order under clause 43, or an expert reporter appointed under clause 65):

- a. must not disclose any information where that disclosure might prejudice the prevention or detection of crime or the investigation or prosecution of an offence;
- b. must not disclose any information received (directly or indirectly), or that relates to, the National Crime Agency unless the National Crime Agency provides consent; and
- c. may choose not to disclose information if it considers disclosure might significantly harm the legitimate personal or business interests of the person to whom the information relates (for example, if the information is highly commercially sensitive).

629. Subsection (6) sets out that a person to whom clause 86 (2) applies may not disclose HMRC information unless HMRC provides consent. Subsection (7) sets out that if a person to whom clause 86 (2) applies discloses HMRC information, the recipient or any other person who obtains the information directly or indirectly, must not further disclose it without HMRC's consent. Subsection (8) defines HMRC information as information disclosed to the IFR under clause 85 (1) or information that is otherwise received by the IFR (directly or indirectly) from, or that relates to, HMRC.

630. Subsection (8) also defines the data protection legislation by reference to section 3(9) of the Data Protection Act 2018.

## Clause 88: Information offences

631. This clause creates offences for the wrongful disclosure of information in contravention of the preceding clauses.

632. Subsection (1) creates an offence for any person listed in clause 85 (2) and (3) to disclose information received from the IFR onwards. Subsection (4) sets out that a person guilty of such an offence may be found guilty on summary conviction or on conviction on indictment (not both). If a person is subject to summary conviction they would be subject to



imprisonment for a term not exceeding the general limit in a magistrate's court, or to a fine, or both imprisonment and a fine. If a person is convicted on indictment then they could be subject to up to two years' imprisonment, or to a fine, or both imprisonment and a fine.

633. Subsection (2) creates an offence of wrongful disclosure of revenue and customs information. It is an offence for any person, including the IFR, to disclose revenue and customs information relating to a person in contravention of clause 86 (6) or (7). Subsection (5) sets out that such an offence is subject to clause 19(4) and (5) of the Commissioners for Revenue and Customs Act 2005. Subsection (6) defines revenue and customs information by reference to section 19 of the Commissioners for Revenue and Customs Act 2005.

634. Subsection (3) sets out that a person charged with an offence under subsections (1) or (2) has a defence if they can prove that they reasonably believed the disclosure was lawful or that the information had already lawfully been made publicly available.

## **Rules and regulations**

### **Clause 89: Rules**

635. Subsection (1) sets out the IFR's general rule making power to make rules that supplement, or that give effect to, any provision made by the Bill.

636. Subsections (3) to (6) set out the procedural requirements the IFR must follow, which (per subsection (2)) apply to *any* rules the IFR makes under any provision of the Bill.

637. Per subsection (3), rules may confer a discretion on a person, may vary from person to person (e.g. by club) and for different purposes, and may make consequential, supplementary, incidental, transitional, or saving provision. That rules may confer discretion on a person means that rules may, for example, make reference to information specified by other persons that may be updated from time to time (e.g. rules or guidance published by football industry bodies).

638. Per subsection (4) the IFR may amend, replace or revoke any rule it makes.

639. Per subsection (5), the IFR must consult each specified competition organiser and any other persons the IFR considers appropriate before making, amending or replacing rules.

640. Per subsection (6), the IFR must notify the Secretary of State and publish the rules as soon as reasonably possible after making, amending, or replacing rules.

641. Subsection (7) exempts 'levy rules' (under clause 53) and 'revenue rules' (under paragraph 12 of Schedule 9) from the consultation requirements in subsection (5) of this clause, since those rules are subject to their own specific consultation requirements as set out in their respective provisions.

642. Subsection (8) sets out that specific powers or duties conferred on the IFR to make rules in various provisions throughout the Bill do not affect its general ability to do so as set out in subsection (1).

## Clause 90: Regulations

643. This clause provides further detail on the parameters and procedure around the powers of the Secretary of State to make regulations in various provisions of the Bill.

644. Subsection (1) sets out that regulations may confer a discretion on a person, may vary for different purposes, and may make consequential, supplementary, incidental, transitional, or saving provision. That regulations may confer discretion on a person means that rules may, for example, permit the IFR to determine and specify some of the details within the regulations.

645. Subsection (2) requires that regulations must be made by statutory instrument.

646. Subsection (3) lists the regulations throughout the Bill that must be made by the affirmative parliamentary procedure - this means the regulations must be approved by Parliament before they can come into force. Per subsection (4), all other regulations are subject to the negative parliamentary procedure - this means the regulations come into force unless Parliament objects.

647. Subsection (5) outlines that if a draft of a statutory instrument containing regulations under this Bill were to be treated as a hybrid instrument, in that it would give the Lords an opportunity to present arguments against the instrument, it would proceed in that House as if it were not a hybrid instrument.

648. Subsection (6) disapplies the procedural requirements set out in this clause from regulations made under clause 97, relating to commencement of provisions of the Bill.

## Definitions etc

### Clause 91: Minor definitions etc

649. This clause defines various terms used throughout the Bill that are not defined elsewhere.

650. Per subsection (3) the Secretary of State may amend two of these definitions - 'football season' and 'serious criminal conduct'. Per subsection (4), before amending the definition of 'serious criminal conduct', the Secretary of State must consult such persons as they consider appropriate.

### Clause 92: Index of defined terms

651. This clause refers to Schedule 11, which lists where in the Bill to find definitions or explanations of terms that are used for the purposes of more than one provision.

## General

### Clause 93: Offences by officers of clubs and bodies corporate

652. This clause extends liability for offences committed by a club or other body under the Bill, to the officer(s) of that club or body if it is proved that the officer(s) consented to the offence

being committed, or the offence resulted from neglect by the officer(s). If this is proved, the officer(s) of the club or body is considered guilty as well as the club or body, and may be punished accordingly.

653. Subsection (2) sets out that, if a body corporate other than a club is managed by its members, liability extends over the members as set out above as if the member were an officer of the body corporate.

654. Subsection (3) sets out the meaning of 'officer', in relation to a body corporate other than a club, for the purposes of this section.

## Clause 94: Payments into the Consolidated Fund

655. Subsection 1 requires that amounts that are received through the levy to recoup the IFR's initial costs and the Secretary of State's establishment costs must be paid by the IFR into the Consolidated Fund.

656. Subsection 2 sets out that the IFR, for each financial year, must pay the Secretary of State its "relevant receipts" after deducting its litigation costs. Subsection 3 explains the meaning of "relevant receipts". This includes, in respect of a financial year, any amounts received by the IFR that are attributable to: interest payable on levy payments, financial penalties, and interest payable on financial penalties. Subsection (4) explains the meaning of the IFR's "litigation costs", being the costs incurred during a financial year by the IFR in connection with litigation.

657. Subsection (5) makes provision for the Secretary of State to give directions to the IFR in relation to the IFR's duty to pay the Secretary of State its relevant receipts after deducting litigation costs.

658. Subsection (6) provides that directions may in particular:

- a. specify what costs fall within scope and will be regarded as incurred in connection with litigation;
- b. relate to the calculation and timing of the deduction of the IFR's litigation costs;
- c. specify the time when any payment is required to be made to the Secretary of State.

659. Subsection (7) provides that the Secretary of State may direct the IFR to provide detail on costs incurred by the IFR in connection with litigation (which may include the level of costs) at specified times.

660. Subsection (8) states that the Secretary of State must pay into the Consolidated Fund any amounts received from the IFR in respect of its relevant receipts after deduction of litigation costs.

661. Subsection (9) defines what "financial year" means in this section. The first "financial year" will start on the day when this section comes into force and will end on 31 March in the following year, and after this period a "financial year" is each successive period of 12 months.

## Clause 95: Minor and consequential amendments

662. This clause empowers the Secretary of State to make regulations amending, repealing, or revoking provisions in existing Acts that are consequential to this Bill. The clause also refers to Schedule 12, which makes some such minor and consequential amendments.

## Clause 96: Extent

663. This clause is self-explanatory.

## Clause 97: Commencement

664. This clause sets out when the different provisions of the Bill will come into force.

665. Subsection (1) sets out that, with the exception of the provisions listed in subsection (2), the Bill comes into force on such day or days as directed by the Secretary of State in regulations. Per subsection (3) these regulations may appoint different days for different purposes.

666. Subsection (2) lists provisions that will come into force on the day of Royal Assent. These include the provisions that establish the IFR.

## Clause 98: Short title

667. This clause is self-explanatory.

## **Schedule 11: Index of defined terms**

668. This Schedule provides an index of terms used throughout the Bill that are defined or explained in their respective provisions, and lists where these definitions or explanations can be found.

## **Schedule 12: Minor and consequential amendments**

### Public Records Act 1958

669. Including the IFR in Part II of the table in Schedule 1 of the Public Records Act 1958 provides that the administrative records of the IFR are “public records” for the purposes of that Act.

### Parliamentary Commissioner Act 1967

670. Including the IFR (Schedule 2) confers power on the Parliamentary Commissioner to investigate the actions of the IFR, as with other government departments, corporations and unincorporated bodies listed here, in relation to complaints about actions taken in the exercise of administrative functions.

### House of Commons Disqualification Act 1975

671. This provides for members and staff of the IFR to be disqualified from membership of the House of Commons, to avoid conflicts of interest (Schedule 1).

## Freedom of Information Act 2000

672. The IFR is to be classed as a 'Public Authority' under Schedule 1 to the Freedom of Information Act 2000.

## Criminal Justice and Police Act 2001

673. This paragraph sets out amendments to the Criminal Justice and Police Act 2001 to facilitate the IFR's investigatory powers of search and seizure of information.

## Enterprise Act 2002

674. This paragraph sets out amendments to the Enterprise Act 2002 to enable the Tribunal to issue warrants that the IFR has applied for under the Bill.

## Equality Act 2010

675. This paragraph amends Part 1 of Schedule 19 to the Equality Act 2010 so that IFR will be subject to the public sector equality duty imposed on public authorities under section 149 (1) of that Act ( Part 1 of Schedule 19).

## Competition Appeal Tribunal Rules 2015 (S.I. 2015/1648)

676. This paragraph makes amendments to the Competition Appeal Tribunal Rules 2015 (S.I. 2015/1648) to provide for procedural matters relating to reviews of the IFR's decisions by the Tribunal.

677. Nothing in this new amendment affects the power in section 15 of the Enterprise Act 2002 to revoke or amend the Competition Appeal Tribunal Rules 2015, as those rules are amended by this section.

## Commencement

678. Clause 97 makes provision regarding when measures in this Bill will come into force.

## Financial implications of the Bill

679. The Bill includes a power to allow the IFR to charge fees to industry in order to allow them to become cost neutral to the Exchequer.

680. The financial implications of the Bill include, but are not limited to:

- a. the establishment and operation of the IFR. The Government is making funding available for the set-up costs of the IFR. The funding is set to be recouped via an industry levy and returned to the Exchequer.
- b. the future operational costs of the IFR will be funded by an industry levy. The economic estimates of the operational costs over a 10-year period are included in the

Impact Assessment.

- c. the future legal costs of the IFR. The courts may incur costs due to appeals, which would result in legal and justice costs. Insights from existing regulators suggest that these costs will be marginal compared to the benefits of the legislation.

## Parliamentary approval for financial costs or for charges imposed

681. The Bill requires a money resolution and a ways and means resolution. A money resolution is required where a bill authorises new charges on the public revenue – broadly speaking, new expenditure. In this case a money resolution is required because the establishment of the IFR is estimated to involve annual administrative expenses for the government until the levy is able to be charged once clause 52 comes into effect, at which point the IFR will be self-funded. Further details of the costs and benefits of provisions are set out in the impact assessment published alongside the Bill.

682. A ways and means resolution is required where a bill authorises new charges on the people - broadly speaking, new taxation or other similar charges. As this Bill imposes a levy on licensed clubs to cover the costs of the IFR in exercising its functions, and such a levy is imposed for the general benefit, a ways and means resolution is required.

## Compatibility with the European Convention on Human Rights

683. The Government considers that the Bill is compatible with the European Convention on Human Rights.

## Environmental Law

684. The Secretary of State, the Rt Hon Lucy Frazer KC MP, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

## NI trade statements of divergence

685. The Secretary of State, the Rt Hon Lucy Frazer KC MP, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under section 13C of the European Union (Withdrawal) Act 2018 has been made.

## Related documents

686. The following documents are relevant to the Bill and can be read at the stated locations:

- [The Fan-Led Review of Football Governance: securing the game's future](#), November 2021.
- [Contingent valuation of men's Professional Football Clubs and the Fan-Led Review Recommendations for DCMS](#), August 2022.
- [A Sustainable Future - Reforming Club Football Governance](#), February 2023.
- [A Sustainable Future - Reforming Club Football Governance: Consultation response](#), September 2023.
- [Raising the bar - reframing the opportunity in women's football](#), July 2023.

# Annex A: Detailed Licensing Regime

## Table 1: Detailed requirements on clubs

Threshold Requirements	Appropriate financial resources	<ul style="list-style-type: none"> <li>The appropriate financial resources threshold requirement is met if the financial resources of the licensed club are appropriate in relation to the activities the club carries on or seeks to carry on.</li> <li>The appropriate non-financial resources threshold requirement is met if the non-financial resources of the licensed club are appropriate in relation to the activities the club carries on or seeks to carry on.</li> <li>Financial resilience regulation will be delivered through these threshold requirements.</li> </ul>
	Appropriate non-financial resources	
	Fan engagement	
Mandatory Licence Conditions		<p><b>Financial plans</b></p> <ul style="list-style-type: none"> <li>The club must submit a financial plan to the IFR (by a date set by the IFR). The plan will contain all the necessary information for the IFR to assess the risk profile of the club.</li> <li>The licensed club must comply with the plan on an ongoing basis, and update it as required.</li> </ul> <p><b>Fan consultation</b></p> <ul style="list-style-type: none"> <li>The licensed club must regularly consult with persons appearing to the IFR to represent the views of the club’s fans on relevant matters (as defined under the fan engagement threshold requirement).</li> </ul> <p><b>Corporate governance</b></p> <ul style="list-style-type: none"> <li>The licensed club must prepare a corporate governance statement setting out how they apply the principles of the IFR’s Corporate Governance Code of Practice (“the Code”).</li> <li>The IFR’s role will be advisory and it will not be able to mandate clubs take a specific approach to applying the Code.</li> </ul> <p><b>Annual declaration</b></p> <ul style="list-style-type: none"> <li>A licensed club must submit an annual declaration to the IFR containing, at a minimum, a description of any material changes in circumstances affecting the club over the past year.</li> </ul>
Freestanding duties (on licensed clubs only)		<p><b>Personnel statement</b></p> <ul style="list-style-type: none"> <li>A licensed club must submit a personnel statement to the IFR for approval in a club’s application for a provisional licence. The IFR can approve the statement, or approve it with modifications. On an ongoing basis, clubs must provide a new personnel statement as soon as reasonably practicable after the previous statement becomes inaccurate.</li> </ul>



	<p><b>Levy</b></p> <ul style="list-style-type: none"> <li>• All licensed clubs must pay a levy payment for chargeable periods within the duration of their licence, at both the provisional and full operating licence stage (unless an exception specified within the IFR’s levy rules applies).</li> <li>• The first levy payments will be payable to the IFR by licensed clubs within such time period to be specified by the IFR, once the IFR has published its list of levy payments payable by each club for that chargeable period. Thereafter, clubs’ levy payments will be payable on an annual basis, again within such time period to be specified by the IFR.</li> </ul>
<p>Freestanding duties (on regulated clubs)</p>	<p><b>Relocation</b></p> <ul style="list-style-type: none"> <li>• A regulated club must notify the IFR where the club considers there is a reasonable prospect of entering into arrangements whereby a relevant team operated by it would no longer play its home matches at the club’s home ground.</li> <li>• Such an arrangement may only proceed with the IFR’s prior approval. The IFR may only grant approval if it is satisfied the move would not undermine the financial sustainability of the club, and would not cause significant harm to the heritage of the club.</li> </ul> <p><b>Changes to club heritage</b></p> <ul style="list-style-type: none"> <li>• A regulated club must take reasonable steps to establish the support of a majority of its fans in England and Wales before making changes to club crest or predominant home shirt colours, and obtain the approval of the Football Association before making changes to the club’s playing name.</li> </ul> <p><b>Notification requirements</b></p> <ul style="list-style-type: none"> <li>• A regulated club must notify the IFR of any material changes in circumstances affecting the club, as soon as is reasonably practicable.</li> </ul> <p><b>Notification related to owners and officers</b></p> <ul style="list-style-type: none"> <li>• A regulated club must notify the IFR where it considers there is a reasonable prospect of a person becoming an owner or officer of the club (this must be before a person becomes an owner or officer of the club).</li> <li>• A regulated club must notify the IFR of a material change in an owner or officer of the club’s circumstances, relevant to the IFR’s determination that the person is suitable.</li> </ul>

Freestanding duties (on regulated and formerly regulated clubs)

#### **Prohibited competitions**

- A regulated club (or any club that has been regulated in the past 10 years) must not play in competitions that have been prohibited by the IFR.
- Statute will indicate factors the IFR should consider when deciding whether to prohibit competitions (e.g. that the competition is fair and meritocratic), and will require the IFR to have regard to the views of fans in England and Wales.
- The IFR must consult the Football Association, and any other persons it considers appropriate, before prohibiting a competition.

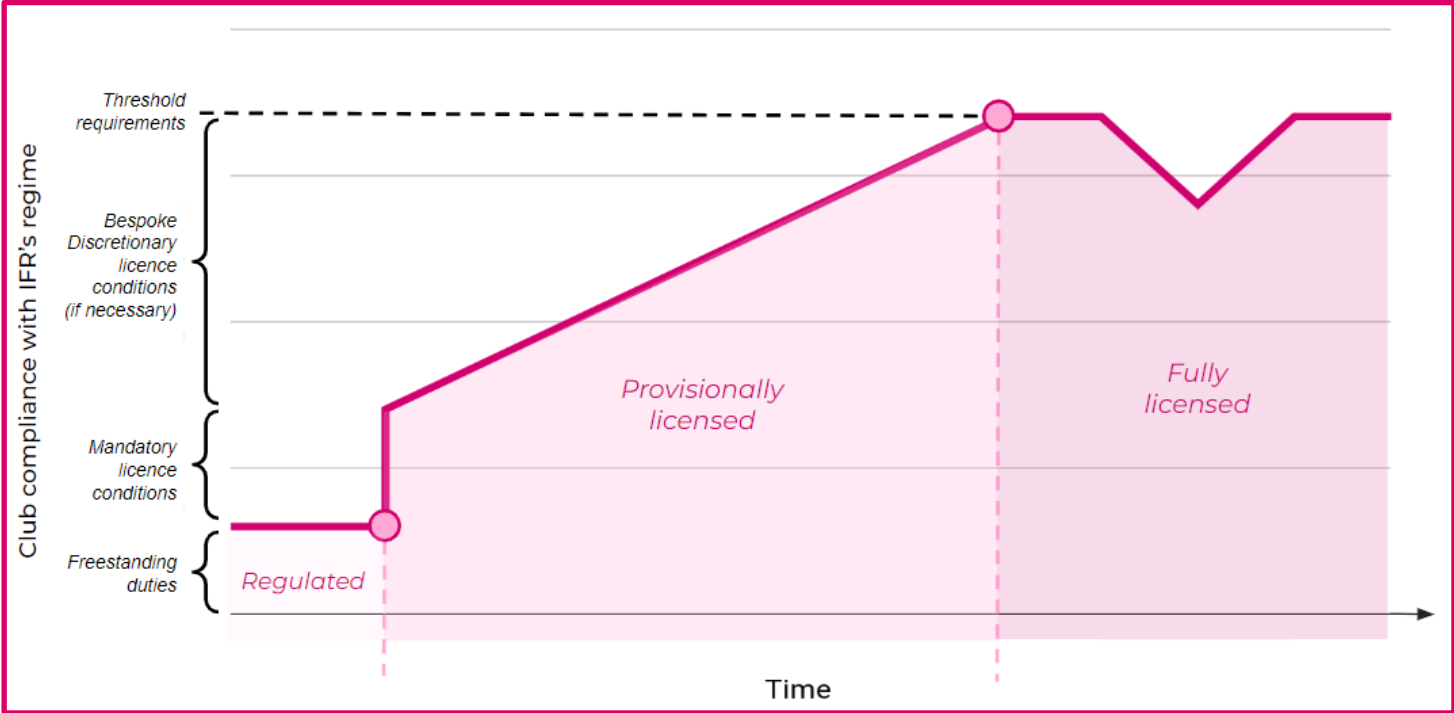
#### **Disposal of a home ground etc**

- A regulated club, or a body that has been a regulated club in the previous 10 years (“formerly regulated club”), must notify the IFR where the club or formerly regulated club considers there is a reasonable prospect of it disposing of any interest in its home ground or using its home ground for security against a debt or other liability.
- Such a transaction may only proceed with the IFR’s prior approval. The IFR will only grant approval to a regulated club if they are satisfied it would not undermine the financial sustainability of the club. The IFR will only grant approval to a formerly regulated club where it is satisfied that all reasonable steps have been taken to ensure that a football team carries on using the ground for its home matches.

#### **Appointment of administrator**

- A regulated club, or a body that has been a regulated club in the previous 10 years (“formerly regulated club”), must notify the IFR where the club or formerly regulated club considers there is a reasonable prospect of appointing an administrator.
- Such an appointment may only proceed with the IFR’s prior approval.

**Figure 1: Depiction of Regulatory Requirements on Clubs under the IFR's System**



## Annex B: Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Part 1 - Purpose, Overview and Key Definitions  Clause 1 to Clause 4	Yes	Yes	Yes	No	N/A	No	N/A
Part 2 - The Independent Football Regulator  Clause 5 to Clause 8	Yes	Yes	No	No	N/A	No	N/A
Part 2 - The Independent Football Regulator  Clause 9	Yes	Yes	No	No	N/A	No	N/A
Part 2 - The Independent Football Regulator  Clause 10 to Clause 14	Yes	Yes	No	No	N/A	No	N/A
Part 3 - Operating Licences	Yes	Yes	No	No	N/A	No	N/A
Part 4 - Owners And Officers Of Regulated Clubs: Suitability Etc	Yes	Yes	No	No	N/A	No	N/A
Part 5 - Duties on clubs and competition organisers etc	Yes	Yes	No	No	N/A	No	N/A

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 45							
Part 5 - Duties on clubs and competition organisers etc	Yes	Yes	Yes	No	N/A	No	N/A
Clause 46							
Part 5 - Duties on clubs and competition organisers etc	Yes	Yes	No	No	N/A	No	N/A
Clause 47							
Part 5 - Duties on clubs and competition organisers etc	Yes	Yes	Yes	No	N/A	No	N/A
Clause 48 and Clause 49							
Part 5 - Duties on clubs and competition organisers etc	Yes	Yes	Yes	No	N/A	No	N/A
Clause 50							
Part 5 - Duties on clubs and competition organisers etc	Yes	Yes	Yes	No	N/A	No	N/A
Clause 51							
Part 5 - Duties on clubs and competition organisers etc	Yes	Yes	No	No	N/A	No	N/A
Clause 52 and Clause 53							
Part 5 - Duties on clubs and competition organisers etc	Yes	Yes	No	No	N/A	No	N/A
Clause 54							

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Part 6 Distribution of Revenue	Yes	Yes	No	No	N/A	No	N/A
Part 7 Investigatory Powers Etc  Clause 64 and Clause 65	Yes	Yes	No	No	N/A	No	N/A
Part 7 Investigations into Relevant Infringements  Clause 66 and Clause 67	Yes	Yes	Yes	No	N/A	No	N/A
Part 7 Investigations into Relevant Infringements  Clause 68	Yes	Yes	Yes	No	N/A	No	N/A
Part 7 Investigations into Relevant Infringements  Clause 69 and Clause 70	Yes	Yes	Yes	No	N/A	No	N/A
Part 7 Investigations into Relevant Infringements  Clause 71	Yes	Yes	Yes	No	N/A	No	N/A
Part 7 General  Clause 72 and Clause 73	Yes	Yes	No	No	N/A	No	N/A
Part 8 Enforcement  Clause 74	Yes	Yes	No	No	N/A	No	N/A
Part 8 Enforcement	Yes	Yes	No	No	N/A	No	N/A

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 75 and Clause 76							
Part 8 Enforcement  Clause 77 (1, 2, 3, 4, 6 and 7)	Yes	Yes	No	No	N/A	No	N/A
Part 8 Enforcement  Clause 77 (5)	Yes	Yes	Yes	No	N/A	No	N/A
Part 8 Enforcement  Clause 78	Yes	Yes	No	No	N/A	No	N/A
Part 8 Enforcement  Clause 79	Yes	Yes	No	No	N/A	No	N/A
Part 9 Reviews and Appeals  Clause 80	Yes	Yes	No	No	N/A	No	N/A
Part 9 Reviews and Appeals  Clause 81 and Clause 82	Yes	Yes	Yes	No	N/A	No	N/A
Part 9 Reviews and Appeals  Clause 83 and Clause 84	Yes	Yes	No	No	N/A	No	N/A
Part 10 General  Clause 85	Yes	Yes	No	No	N/A	No	N/A
Part 10 General  Clause 86(4)	Yes	Yes	Yes	No	N/A	No	N/A
Part 10 General	Yes	Yes	No	No	N/A	No	N/A

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 86 (1, 2, 3, 5, 6) and Clause 87							
Part 10 General Clause 88	Yes	Yes	No	No	N/A	No	N/A
Part 10 General Clause 89 and Clause 90	Yes	Yes	No	No	N/A	No	N/A
Part 10 General Clause 91	Yes	Yes	Yes	No	N/A	No	N/A
Part 10 General Clause 92	Yes	Yes	Yes	No	N/A	No	N/A
Part 10 General Clause 93	Yes	Yes	No (Except where the offence referred to is an offence against Clause 77(5))	No	N/A	No	N/A
Part 10 General Clause 94	Yes	Yes	No	No	N/A	No	N/A
Part 10 General Clause 95	Yes	Yes	No	No	N/A	No	N/A
Part 10 General Clause 96 and Clause 97	Yes	Yes	No	No	N/A	No	N/A
Part 10 - General	Yes	Yes	No	No	N/A	No	N/A



Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 98							
<b>Schedules</b>							
Schedule 1 - Meaning of "Owner"	Yes	Yes	Yes	No	N/A	No	N/A
Schedule 2 - The Independent Football Regulator	Yes	Yes	No	No	N/A	No	N/A
Schedule 3 - Transfer Schemes	Yes	Yes	No	No	N/A	No	N/A
Schedule 4 - Threshold Requirements	Yes	Yes	No	No	N/A	No	N/A
Schedule 5 - Mandatory Licence Conditions	Yes	Yes	No	No	N/A	No	N/A
Schedule 6 - Commitments in Lieu of Financial Discretionary Licence Conditions	Yes	Yes	No	No	N/A	No	N/A
Schedule 7 - Meaning of "Relevant Infringement"	Yes	Yes	Yes	No	N/A	No	N/A
Schedule 8 - Investigatory Powers	Yes	Yes	Yes	No	N/A	No	N/A
Schedule 9 - Sanctions	Yes	Yes	No	No	N/A	No	N/A
Schedule 10 - Reviews	Yes	Yes	Yes	No	N/A	No	N/A
Schedule 11 - Index of Defined Terms	Yes	Yes	Yes	No	N/A	No	N/A
Schedule 12 - Minor and Consequential Amendments	Yes	Yes	No	No	N/A	No	N/A

## Subject matter and legislative competence of devolved legislatures

In the opinion of the UK Government, this Bill has some areas within the devolved competence of Wales. While sport is a devolved matter under Schedule 7A of the Government of Wales Act 2006, any provision where a function is conferred on a reserved authority, which the IFR would be considered, is subject to a general restriction and are therefore is not within the legislative competence of the Senedd Cymru. Where the Bill places duties on individual clubs, which includes the Welsh clubs, these areas would be within the legislative competence of the Senedd Cymru.

# FOOTBALL GOVERNANCE BILL

## EXPLANATORY NOTES

These Explanatory Notes relate to the Football Governance Bill as introduced in the House of Commons on 19 March 2024 (Bill 187)

---

Ordered by the House of Commons to be printed, 19 March 2024

---

© Parliamentary copyright 2024

This publication may be reproduced under the terms of the Open Parliament Licence which is published at [www.parliament.uk/site-information/copyright](http://www.parliament.uk/site-information/copyright)

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS