

# **GOVERNANCE OF SPORT BILL [HL]**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the Governance of Sport Bill [HL], as introduced on 11th June 2014. They have been prepared by Lord Moynihan in order to assist the reader in understanding the Bill and to help inform debate. They do not form part of the Bill and have not been endorsed by Parliament.
2. These notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. Where a section or part of a section does not seem to require any explanation or comment, none is given.

### **SUMMARY**

3. The Bill makes provision about sports. In particular, it introduces new rules in relation to governing bodies of sport, physical education, sport and physical literacy, sport and public health, disability access, safety for cyclists, protection of playing fields, match-fixing, bribery and corruption, sporting event betting licensing, advertising and trading regulations for governing bodies of sport and major sporting events as well as the responsibility of local authorities. The Bill also provides for a single entity to merge UK Sport and Sport England, an obligation to set out the progress made on urban regeneration in and around the London Olympic site and the impact of sports legacy throughout the United Kingdom, national anti-doping provisions, liability of members' clubs, visa and immigration rules, boycotts, equality, compensation for sports clubs with national team players and additional rules in relation to sports agents, ticket touting, the ability of athletes under the age of 18 to enter legally binding contracts and television broadcasting of sporting events.

4. The main measures of the Bill provide for:

- the governance of, and obligations imposed on, governing bodies of sport,
- an obligation to document the state of physical education and sport in schools in England and Wales on an annual basis,
- an obligation to set out national policy objectives, *inter alia*, to deliver a proactive health agenda through sport and physical recreation on an annual basis,
- access for disabled people to sports grounds,
- obligations to carry out a national audit of cycling and to impose rules to ensure the safety of cyclists,
- the protection of playing fields,
- provisions for the prevention of match-fixing, bribery and corruption,
- the introduction of sporting event betting licensing,
- the protection of intellectual property in connection with governing bodies of sport and major sporting events,
- the introduction of a mandatory responsibility in relation to local authorities to provide sporting facilities,
- the obligation to introduce a single body to oversee the delivery of sport and recreation policy in the United Kingdom, empowering governing bodies of sport and sports clubs, such body to be subject to the Equality Act 2010,
- an obligation to set out the progress made on urban regeneration in and around the London Olympic site and the impact of sports legacy throughout the United Kingdom,
- national anti-doping provisions,
- the liability of members' clubs,
- visa and immigration rules for elite tournaments,
- compensation for sports clubs with national team players,

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- the regulation of sports agents,
- additional rules in connection with ticket touting,
- the ability of athletes under the age of 18 to enter legally binding contracts,
- rules in relation to television broadcasting of sporting events.

## **TERRITORIAL EXTENT**

5. Except for clauses 4 and 5, which deal with Sport and Physical Literacy and Sport and Public Health respectively, and clause 8, which deals with the protection of playing fields, the Bill extends to the whole of the UK. Clause 8 applies to England, Wales and Scotland. Clauses 4 and 5 apply to England and Wales only.

## **COMMENTARY ON SECTIONS**

### **Clause 1: Interpretation**

6. *Clause 1* deals with definitions of the principal terms in the Bill. In particular, the term “governing body of sport” includes bodies which serve as the national or regional ruling body for a sport or for a sporting event involving one or more sports within the nation or a region; it also includes bodies which select sports teams at a national or regional level, operate a licensing system at a national or regional level authorising the conduct of sporting events or bodies which exercise disciplinary authority over one or more sports on a national or regional basis. The rules relating to governing sporting bodies are, however, only applicable if the relevant body receives, directly or indirectly, government, local authority or lottery funding.

### **Clause 2: Governance of governing bodies of sport**

7. *Clause 2* deals with the governance of governing bodies of sport.

8. *Subsection (1)* enables the Secretary of State for Culture, Media and Sport (hereafter the “Secretary of State”) to make regulations relating to governing bodies of sport in order to ensure the highest standards of governance, accountability and transparency in the promotion and development of physical and sports activities for all.

9. *Subsection (2)* enables the Secretary of State to make regulations to introduce rules to require, in licensing or approving any sporting event, mandatory conditions relating to such a sporting event, including in relation to disability access for athletes and spectators, gender and/or other discrimination, safety and anti-doping provisions.

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10. *Subsection (3)* obliges the Secretary of State, when determining whether to provide funding support to bids for the hosting of international sporting events, to take into account the governance of international sports federations.

11. *Subsection (4)* obliges the Secretary of State to use all reasonable influence to ensure that all sports-related international disciplinary and dispute resolution bodies having authority over sports in the UK and at any major sporting events hosted in the UK (including the Court of Arbitration for Sport and the World Anti-Doping Agency) have appropriate governance rules in place.

12. *Subsections (5) to (7)* deal with the term “governance” which includes rules in relation to an appropriate constitution, a fair representation by the stakeholder groups, proper election processes, and the meeting of modern standards of corporate governance as well as appropriate governance procedures, including fully constituted athletes’ commissions (i.e. committees which represent the interests of athletes in order to bring the perspective and expertise of athletes to the various initiatives and programmes operated by the relevant governing body of sport) and audit committees (i.e. committees which are responsible for monitoring and reviewing the integrity of the processes and procedures relating to internal control and reporting of the relevant governing body of sport) with financially literate members and published schedules of benefits and remuneration; it does not, however, include the specificity of sport, i.e. it does not, *inter alia*, include the ability to influence the selection of teams, the composition of squads, or the power to regulate the rules of a particular game. With regard to “fair representation by the stakeholder groups”, the Secretary of State is entitled to make regulations to stipulate which groups should be represented, including supporters, athletes and other stakeholders, both male and female, able-bodied and disabled (*subsection (6)*).

**Clause 3: Obligations imposed on governing bodies of sport**

13. *Clause 3* deals with obligations imposed on governing bodies of sport.

14. *Subsection (1)* requires the governing bodies of sport to promote the sport in relation to which they are a governing body fairly and appropriately, and not discriminate against, or restrict access to, the sport, including in relation to gender, disability, sexual orientation, religion and race in line with the UNESCO MINEPS V Declaration of Berlin 2013.

15. *Subsection (2)* stipulates that the decision of a governing body of sport in the regulation of its sport is subject to the same standard of review as if the decision were a decision of a public body susceptible to judicial review in the Administrative Court, which standard of review may be exercised by an arbitral panel if a valid arbitration clause is in place.

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16. *Subsection (3)* requires the governing bodies of sport to ensure, where appropriate and taking into account the privacy of athletes, full transparency and accountability to their members and to the sportsmen and women they represent.

17. *Subsection (4)* requires the governing bodies of sport to ensure that their executive boards consist of a balance of representatives of the sport.

18. *Subsection (5)* requires any governing body of sport claiming jurisdiction in the United Kingdom to publish on its website (a) detailed financial statements in accordance with the requirements set down by the Charity Commission and Companies House in respect of charities and companies respectively and (b) details of board members' remuneration, benefits and payments in kind.

19. *Subsection (6)* requires any governing body of sport to publish annually in full an updated whole sports plan (i.e. the business plan, covering the next three years, outlining strategies to grow participation, promote and develop talent in the sport for which it has responsibility). Such business plan must include the outline pathway and opportunities that a talented athlete can follow in progressing his or her interest, experience, knowledge and performance from beginner, to competent, to proficient, to expert. Such whole sports plan must also focus on the "aggregation of marginal gains theory" endorsed by British Cycling (i.e. the idea that each aspect of performance should be examined and improved in order to extract small advantages which collectively add up to a decisive winning margin) and the extent to which use of this theory has been maximised within their sport. Finally, if required, any whole sports plan prepared in relation to an application for Government, local authority or lottery funding must put forward recommendations as to the total plan for the sport and how the benefits of the "marginal gains" theory could be further maximised within sport (*subsection (7)*).

20. *Subsection (8)* requires any governing body of sport, where relevant, to adopt best international practice in dealing with prevention of harm from injuries including concussions in contact sports. Pursuant to the International Rugby Board Concussion Guidelines a concussion is a complex process caused by trauma that transmits force to the brain either directly or indirectly and results in temporary impairment of brain function, although losing consciousness is not necessarily involved. In order to adopt best international practice, the relevant governing body of sport must particularly ensure under *subsection (9)* the provision of information and training to all coaches, officials, volunteers and athletes, including in relation to the nature, risks, signs and symptoms of concussion and injuries and the risks associated with continuing to play after a concussion or injury. The relevant governing bodies of sport must also ensure the removal of any athlete from a game, competition or practice where that athlete reports or shows any sign or symptom of a concussion. Finally, the relevant governing bodies of sport must ensure that an athlete who has been removed from a game, competition or practice is not permitted to return to that activity that day and until cleared by a qualified medical practitioner with experience in the management of concussion

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since concussion is associated with a graded set of clinical signs and symptoms that resolve sequentially.

21. *Subsection (10)* provides for a rebuttable presumption that, within the same sport, prize money is equally split between men and women as well as between disabled and able-bodied athletes. Should equal prize money not be offered, the relevant governing body of sport must give a public explanation as to how the difference is determined (*subsection (11)*).

#### **Clause 4: Physical Education, Sport and Physical Literacy**

22. *Clause 4* deals with physical education, sport and physical literacy in schools in England and Wales.

23. *Subsection (1)* requires the Secretary of State for Education to prepare and to lay before both Houses of Parliament an annual report documenting the state of physical education and sport in schools in England and Wales and comparing progress to the UNESCO Guidelines on Quality Physical Education. The report must be debated in both Houses of Parliament.

24. *Subsection (3)* amends section 5(5A) of the Education Act 2005 to provide that the report prepared by Her Majesty's Chief Inspector of Education, Children's Services and Skills must also cover the quantity and quality of physical education, physical activity and sport provided, both within and beyond the curriculum.

25. Under *subsection (4)*, all schools shall publish annually a report setting out (a) policy in relation to sharing of the school's sports and physical activity facilities and coaching/instruction expertise in order to benefit the local community; and (b) effort made in the previous year to implement such policy.

26. Under *subsection (5)*, all schools holding charitable status must submit such report set out in *subsection (4)* to the Charity Commission and the Charity Commission must take into account such report in assessing whether the school continues to meet the "public benefit" requirement in section 2(1)(b) (meaning of "charitable purpose") of the Charities Act 2011.

#### **Clause 5: Sport and Public Health**

27. *Clause 5* deals with sport and public health and requires the Secretary of State for Health to prepare and to lay before both Houses of Parliament an annual report setting out policy objectives to deliver a proactive health agenda through sport, physical activity and physical recreation, to promote sport and physical activity programmes to tackle obesity and enhance healthy lifestyles, and to suggest clear measures to be introduced to increase participation, both male and female, able-bodied and disabled, in active leisure pursuits. This aims to complement the work of the Department of Health in promoting healthy lifestyles. The report must be available to be debated in both Houses of Parliament.

### **Clause 6: Disability access**

28. *Clause 6* deals with disability access and obliges the Secretary of State to make provisions for the access of disabled athletes and spectators to sport venues and sporting events as he or she thinks fit, including in relation to technical specifications, training for accessibility and sporting events requirements, so as to procure that all venue design and planning as well as sporting events' operations satisfy the principles of equity, dignity and functionality as further specified in "Accessibility Guide – An Inclusive Approach to the Olympic & Paralympic Games", issued by the International Paralympic Committee in June 2013.

### **Clause 7: Improved safety for cyclists**

29. *Clause 7* deals with safety for cyclists.

30. *Subsection (1)* imposes an obligation on the Secretary of State for Transport (a) to carry out a national audit of cycling in order to ascertain the number of people cycling in the United Kingdom and the major causes of injury or death to cyclists and (b) to make regulations to promote the safety of cyclists.

31. *Subsection (2)* requires that these regulations include that (i) lorries entering city centres be fitted with sensors, audible turning alarms, extra mirrors and safety bars in order to prevent cyclists from being thrown under the wheels of the vehicle, (ii) dangerous road junctions be identified and redesigned or fitted with priority traffic lights for cyclists and mirrors that allow lorry drivers to see cyclists on their near-side, (iii) cycling safety be made a core part of the driving test, and (iv) the default speed limit be amended to 20 miles per hour in residential areas where cycle lanes are not provided. *Subsection (2)* also requires the Secretary of State for Transport to make regulations to (i) require that two per cent of the Highways Agency budget be earmarked for next generation cycle routes and that cities be graded annually with regards to the quality of cycling provision which they provide, and (ii) set out a procedure inviting businesses to sponsor cycleways and cycling super-highways mirroring the Barclays-backed bicycle hire scheme in London. In addition, the Secretary of State for Transport is required to make regulations to oblige all cities, including those without an elected mayor, to appoint a cycling commissioner who must ensure cycling reforms within that city, including delivering measurable targets for boosting cycling, ensuring cycling networks for commuters and auditing road projects in order that they be "cycle-proofed".

32. *Subsection (3)* requires the Secretary of State for Transport to make regulations to promote that the needs and safety of cyclists and pedestrians are taken into account when an improvement or change to roads or highways is contemplated.

### **Clause 8: Protection of playing fields**

33. *Clause 8* deals with the protection of playing fields. This clause reflects the proposals made by Fields in Trust and requires the Secretary of State to promote that the provision of sports facilities, are enhanced and adequately protected from being lost to development and that such sports facilities as required to meet the sport and recreational needs of both current and future generations are secured. This clause requires the Secretary of State to introduce a presumption in favour of maintenance of the status quo in the absence of compelling evidence to support the loss of sports facilities.

### **Clause 9: Match-fixing, bribery and corruption**

34. *Subsection (1) paragraph (a)* amends the Gambling Act 2005 in order to specify more clearly the types of conduct which constitute “cheating at gambling”. This would include a person (i) engaging in conduct, (ii) offering to engage in, or encouraging another person to engage in conduct, (iii) entering into an agreement or arrangement in respect of conduct, or (iv) encouraging another person to conceal from a relevant authority, conduct or an agreement or arrangement in respect of conduct, in each case which corrupts, or would corrupt, a betting outcome. In order to be committing “cheating at gambling”, the relevant person must (i) know or be reckless as to whether the conduct corrupts, or would corrupt, a betting outcome, and (ii) intend to obtain a financial advantage or to cause another party a financial disadvantage. Conduct may constitute “cheating at gambling” whether or not a betting outcome is in fact corrupted and whether or not a financial advantage or disadvantage is actually obtained or caused. This section aims to expand the scope of the Gambling Act in order to bring it into line with similar legislation in the Australian state of Victoria.

35. *Subsection (1) paragraph (b)* amends the Gambling Act 2005 in order to increase the maximum tariff on conviction on indictment from two years to ten years.

36. *Subsection (2)* obliges the Secretary of State to review the powers available to the Gambling Commission and others (for example, the police) and, if necessary, amend such powers in order to ensure that they are sufficient to manage the regulatory risks involved. This would implement recommendation 1.2 of the report of the Sports Betting Integrity Panel of February 2010 (the Parry Report).

### **Clause 10: Sporting event betting licensing**

37. *Subsection (1)* makes it an offence for a person to provide a betting service on a sporting event unless they hold a valid sporting event betting licence in relation to such sporting event.

38. *Subsection (2)* grants the relevant governing body of sport or other body responsible for the organisation and management of a sporting event the power to bring a claim against any person providing a betting service in relation to that sporting event without a valid licence.

39. *Subsections (3) to (6)* set out details regarding sporting event betting licences. In particular, such licences must (i) provide for the sharing of information between the licence-grantor and the betting provider for the purpose of protecting and supporting integrity in sports and betting services, and (ii) state any fee payable by the betting provider to the licence-grantor. In addition, a licence may (i) prohibit betting on a particular contingency in relation to a sporting event if the body controlling the sporting event considers that betting on that contingency may expose the sporting event to unmanageable integrity risks, and (ii) contain such additional measures as the body controlling the sporting event considers necessary in controlling integrity risks. The licence may also address any other matters which the parties consider appropriate.

### **Clause 11: Advertising regulations for governing bodies of sport and major sporting events**

40. Under *clause 11*, in order to ensure that intellectual property rights are adequately protected, the Secretary of State may make regulations about advertising in relation to governing bodies of sport and in the vicinity of major sporting events. This clause specifically enables the Secretary of State to extend current intellectual property protection in relation to advertising to governing bodies of sport and major sporting events as was the case for the London Olympic and Paralympic Games 2012. In relation to governing bodies of sport, the protection may capture, for example, the logo of a governing body of sport so that the regulations may relate to advertising by, referencing, or in connection with, a governing body of sport.

41. The Secretary of State has broad discretion in the detail to be included in the regulations. The regulations may specify the nature and extent of these restrictions including the locations, time period and type of advertisements to which the restrictions will apply. In addition, the regulations may provide for enforcement rules, including the right of a constable or an enforcement officer to enter land or premises in order to prevent or stop unauthorised advertising as defined in regulations made under *clause 11*.

42. Much of the detail of the restrictions is left to secondary legislation to enable an assessment of what is required in relation to the particular governing body of sport or major sporting event to be made. The regulations may apply restrictions for different periods and in

a different way for different venues. This will enable the characteristics of different governing bodies and different sporting events to be taken into account: for example, the intention is to restrict advertising around a certain venue for a limited period as some venues will only be used for a very short space of time.

43. *Subsection (6)* provides that the regulations may impose obligations on those who advertise or those who benefit from unauthorised advertising. This will include people who actually undertake advertising activity or arrange for it to take place and people who maintain advertisements. It will also include people who are responsible for goods, services or businesses advertised (such as directors or managers of companies whose products are advertised). Regulations may also impose duties on the owners and occupiers of land to ensure that unauthorised advertising – as specified in regulations – does not occur on their land. It allows for these regulations to supersede any previous permission for the use of that land, for example permissions granted by local planning authorities under the Town and Country Planning Act (1990).

44. *Subsection (7)* creates a criminal offence for contravening the regulations made under *section 10*, punishable by a fine. In the Magistrates' Courts the maximum fine will be £20,000, which is higher than the maximum fine which Magistrates can normally impose.

#### **Clause 12: Trading regulations for governing bodies of sport and major sporting events**

45. Under *Clause 12*, in order to ensure that intellectual property rights are adequately protected, the Secretary of State may make regulations about trading in relation to governing bodies of sport and in the vicinity of major sporting events. This clause specifically enables the Secretary of State to extend current intellectual property protection in relation to trading to governing bodies of sport and major sporting events as was the case for the London Olympic and Paralympic Games 2012. These regulations are required in order to address issues of amenity and public safety. The regulations may specify the nature and extent of restrictions including the place, time period and type of activity to which restrictions will apply. Regulations may apply during different periods in respect of different places. In relation to governing bodies of sport, the protection may capture, for example, the logo of a governing body of sport. As is the case in relation to the advertising regulations under *clause 11*, much of the detail of the restrictions is left to secondary legislation in order to make a proper assessment of what is required.

46. *Subsection (3)* provides that the restrictions in the regulations may apply to trading on a highway, in a public place, and to trading on private land but not to trading within buildings (except car parks).

47. The regulations may permit trading in accordance with an authorisation as further specified in the regulations, including the circumstances in which such authorisations may or may not be granted. An authorisation may itself be subject to terms and conditions about the

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times of trading or steps to be taken to reduce congestion, litter or noise. Such terms and conditions may differ from, or be more onerous than, those of existing trading licences for the same area.

48. Under *subsection (9)*, contravention of a regulation made under *clause 12* will be an offence, punishable by a fine. In the Magistrates' Courts the maximum fine will be £20,000, which is higher than the maximum fine that Magistrates can normally apply.

**Clause 13: Local authority responsibility for sport**

49. *Clause 13* deals with the local authority responsibility for sport.

50. *Subsections (1), (2) and (3)* amend Section 19 of the Local Government (Miscellaneous Provisions) Act 1976 in order to make sport and other recreational services mandatory spends by local authorities.

51. *Subsections (4) through (10)* amend Sections 43, 44A and 45(A) of the Local Government Finance Act 1988 in order to grant mandatory rate relief in respect of sports grounds and community playing fields as specified by the Secretary of State.

52. *Subsection (11)* requires the Secretary of State (i) to determine such sports grounds and community playing fields as he or she thinks appropriate for the purposes of section 43 (7A), section 44A (1A) and section 45A (4) of the Local Government Finance Act 1988; and (ii) to ensure that sports grounds and community playing fields in Northern Ireland and Scotland are exempt from business rates in the same way as those in England and Wales.

**Clause 14: A single entity to merge UK Sport and Sport England: 'Sport 2022'**

53. *Clause 14* creates a single entity, henceforth known as "Sport 2022", to oversee sport in the UK (i.e. to replace UK Sport and Sport England) and will therefore bring the accountability for HM Treasury and lottery spending in relation to sport under direct Parliamentary supervision for the first time.

54. *Subsection (1)* obliges the Secretary of State to lay before both Houses of Parliament an annual report, setting out policy in relation to sporting programmes in receipt of lottery and/or other funding. The report must be approved by both Houses.

55. *Subsection (2)* obliges the Secretary of State to form a new body to oversee the delivery of the objectives set out in the annual report, including the principal objective which is to empower the governing bodies of sport, sports clubs, local communities and volunteers to implement a UK sports strategy.

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56. Under *subsection (3) paragraph (a)*, the Secretary of State must ensure that the new body has appropriate governance procedures in place and has an athletes' commission.

57. Under *subsection (3) paragraph (b)*, the Secretary of State is obliged to transfer existing powers, rights and obligations of UK Sport and Sport England.

58. Under *subsection (3) paragraph (d)*, the Secretary of State must ensure that the new body will be obliged to coordinate with the relevant bodies in Scotland, Wales and Northern Ireland in relation to the delivery of the objectives set out in the annual report referred to in *subsection (1)*.

### **Clause 15: The 2012 Olympic and Paralympic Legacy Programme**

59. *Clause 15* obliges the Secretary of State to lay before both Houses of Parliament for subsequent debate an annual report entitled "The 2012 Olympic and Paralympic Legacy Programme", specifically setting out the progress made on urban regeneration in and around the London Olympic site and the impact of sports legacy throughout the United Kingdom.

### **Clause 16: National anti-doping provisions**

60. *Clause 16* introduces national anti-doping provisions and criminalises doping where an athlete knowingly takes a prohibited substance with the intention, or one of the intentions, of enhancing his or her performance. It is also a criminal offence if a person belonging to the entourage of an athlete (i.e. all people associated with an athlete, including, without limitation, managers, agents, coaches, physical trainers, medical staff, scientists, sports organisations, sponsors, lawyers and any person promoting or logistically supporting the athlete's career, including family members) encourages, assists or hides awareness of the relevant athlete taking a prohibited substance with the intention, or one of the intentions, of enhancing such athlete's performance. Where applicable, both the criminal offence and the current sporting sanction will apply simultaneously to doping offences.

61. *Subsection (5)* obliges UK Anti-Doping to discuss a number of issues annually with the World Anti Doping Agency ("WADA") in the context of an annual review of the performance of WADA to be undertaken by the Secretary of State and laid before both Houses (*subsection (6)*). These issues include (a) the effectiveness of the "whereabouts rules" and their compliance with EU privacy and working time rules as well as with The European Convention on Human Rights, (b) the effectiveness of the international work of WADA generally, and (c) progress on the development of a universal rollout of athlete biological passports.

62. Currently, under section 11 of the International Standard for Testing issued by WADA, top elite athletes have to provide information about their location to the International Sport Federation or the National Anti-Doping Organisation in order to ensure that out-of-

competition doping controls can be conducted without notice to athletes. Each athlete has to make a quarterly filing that provides information about (i) the athlete's whereabouts during the forthcoming quarter, including identifying where he or she will be living, training and competing during that quarter, and (ii) for each day in the forthcoming quarter, one specific 60-minute time slot where he/she will be available at a specified location. The athlete is deemed to have committed an anti-doping rule violation if he/she commits a total of three whereabouts failures (which may be any combination of filing failures and/or missed tests adding up to three in total) within any 18 month period. The new subsection obliges UK Anti-Doping to discuss whether such rules amount to an invasion of the athlete's personal privacy, amongst other issues annually with WADA with a view to ensuring that the "whereabouts rules" are compliant with European law.

#### **Clause 17: Limited liability and default constitution for members' clubs**

63. *Clause 17 subsection (1)* gives private members' clubs limited liability provided that certain conditions are met. These include that the club publishes its financial statements (on a website or otherwise) and uses the words "Members' Club" or "M.C." at the end of its name. In such instances, liability is limited to such amount as shown in the club's financial statements.

64. Currently, private members' clubs have unlimited liability unless they choose to become limited liability companies. There are a number of administrative reasons why clubs currently may not choose to become limited liability companies. For example, this would oblige them to file annual accounts and to keep a shareholders register. *Clause 17* grants private members' clubs limited liability, but without the additional administrative obligations which would arise should the club choose to become a limited liability company.

65. *Subsection (2)* grants members of members' clubs the same rights and liabilities as shareholders in a limited liability company.

66. *Subsection (3)* gives the Secretary of State the ability to prescribe a default constitution for private members' clubs which would apply unless the club chooses to adopt an alternative constitution.

67. Currently, should a private members' club wish to change its rules, unanimous consent of all members is required unless the club's rules provide a specific procedure which states otherwise. The default constitution would set out a specific procedure in relation to amending a club's rules.

#### **Clause 18: Visa and immigration rules for elite tournaments**

68. *Clause 18* grants the Minister for Security and Immigration the ability to simplify the visa process for (i) spectators holding tickets to sporting events due to be hosted in the UK and

(ii) athletes in order to make it easier to get visas and/or work permits to compete in elite tournaments. In relation to an athlete, it also gives him or her the power to require the allocation of a certain number of visas and/or work permits to sports clubs, teams, associations or leagues. Entities supporting home-grown talents and not using their allocation of visas/permits are able to trade unused visas/permits with clubs in need of additional visas/permits for valuable consideration. The consideration will be the result of commercial negotiations between the parties involved.

### **Clause 19: Boycotts**

69. *Clause 19* proposes that boycotts of sporting events (i.e. the act of abstaining from attending, competing in, or otherwise supporting a sporting event as an expression of protest) shall be invalid unless (i) a full consultation of relevant governing bodies and athletes has been undertaken in advance, (ii) a majority of the athletes affected by the proposed boycott have voted in favour of the boycott in secret ballot, and (iii) the boycott complies with statutory rules and provisions, meets the requirements of competition law and is otherwise in accordance with law. This aims to avoid the situation whereby athletes, who may have trained for several years for a sporting event, are subsequently told that they cannot compete in it due to the imposition of a boycott. It proposes to give athletes a voice in any decision as to whether or not certain sporting events should be attended, thus ensuring that they are not penalised due to a decision beyond their control.

### **Clause 20: Equality**

70. *Clause 20* amends the Equality Act 2010.

71. *Subsection (2)* removes the private members' club exemption in the Equality Act 2010 where a private members' club is a sporting club or offers sporting facilities. Currently, the obligation in Section 101 of the Equality Act 2010 (i.e. that associations must not discriminate against a person in (i) deciding who to admit to membership, (ii) deciding upon terms of membership, or (iii) refusing applications for membership) does not apply to associations restricting membership to persons who share a protected characteristic (including age, disability, race, sex and religion or belief). This means that private members' clubs may currently restrict membership to members of one sex only. This subsection removes the exemption for private members' clubs which are sporting clubs or offer sporting facilities, thus meaning that such clubs can no longer restrict access to members of a particular sex only.

72. *Subsection (3)* makes Sport 2022 a public authority for the purposes of the Equality Act 2010, thus making it subject to the Equality Act 2010.

**Clause 21: Compensation for sports clubs with national team players**

73. *Clause 21* obliges the Secretary of State to make regulations to the effect that, where rules impose a mandatory duty on sports clubs to release athletes to play in national sports teams, (a) such national sports teams must (i) have insurance against injury in place for the benefit of the club and the player, and (ii) compensate the club for loss of the player during national duties, and (b) lottery funding will be made available to national sports teams in demonstrable need in order to meet their obligations. The Secretary of State is also obliged to make regulations to create an offence as he or she thinks appropriate if a national sports team contravenes any regulations made under this section.

**Clause 22: Regulation of sports agents**

74. *Clause 22* imposes certain obligations on sports agents.

75. Under *subsection (1) paragraph (a)*, sports agents are required to disclose, in advance of entering into a contract with an athlete, the full remuneration and any benefits which they are due to or may receive in connection with entering into the contract with such athlete.

76. Under *subsection (1) paragraph (b)*, sports agents must produce an annual report to the athlete setting out actual remuneration or benefits received by way of or in connection with acting as sports agent for that athlete.

77. Under *subsection (1) paragraph (c)*, sports agents must disclose to athletes any conflicts of interest existing before entry into an agency contract with that athlete and any conflicts subsequently arising.

78. *Subsection (2)* gives an athlete the right to terminate an agency contract should the sports agent breach any of the requirements set out above. The right to terminate does not affect any claim for misrepresentation the athlete may otherwise have.

79. *Subsections (3) and (4)* give the Secretary of State the power to make provision (i) to control the conduct of sports agents (in particular, the Secretary of State may introduce licensing requirements and/or qualification systems in relation to sports agents) and (ii) to create an offence as he or she thinks appropriate where a person or entity contravenes any regulations made under this clause.

### **Clause 23: Ticket touting**

80. *Clause 23* grants the Secretary of State the ability to extend the ticket touting rules set out in section 166 of the Criminal Justice and Public Order Act 1994 to include reference to one or more additional sports where he or she considers that there are justifiable grounds for doing so, having taken into account the need for a free market in tickets. Currently, the rules set out in section 166 of the Criminal Justice and Public Order Act 1994 apply only to football. Whilst the Secretary of State does currently have the ability to apply section 166 to such sporting event or category of sporting event for which 6,000 or more tickets are issued for sale as he or she thinks fit, this only gives him or her the ability to apply section 166 to specific events, and not to particular sports in general. The new section allows the Secretary of State to apply section 166 to one or more additional sports in general.

### **Clause 24: Ability of athletes under the age of 18 to enter legally binding contracts**

81. *Clause 24* gives athletes between the ages of 14 and 18 the ability to enter into legally binding professional sports contracts with sports clubs provided that certain conditions are met. These include that (a) the athlete has received legal advice in relation to the matter, (b) the contract is not unduly onerous, in terms of both substantive obligations and duration and (c) the contract is countersigned by a parent or guardian.

82. Currently, many athletes under the age of 18 cannot, or choose not to, enter into contracts with the clubs with whom they train. Where those young sportspeople show potential, on reaching the age of 18 they often move to bigger clubs who offer larger salaries and better prospects. The new section aims to protect clubs who nurture young talent and ensure that they will be remunerated where those young players move to larger clubs.

83. Under *subsection (4)*, in the event that a professional sports contract entered into under *subsection (1)* is breached by the athlete whilst under the age of 18, any third party guilty of inducing the athlete to breach such contract shall be liable as if that third party was a party to that contract.

### **Clause 25: Television broadcasting of sporting events**

84. Currently, there are certain sporting and other events of national interest which can only be broadcast on free-to-air television, as specified by the Secretary of State under the Broadcasting Act 1996. This includes Group A events, which must be shown live on free-to-air television (e.g. the FA Cup Final, the Grand National and the finals of the Wimbledon Championships) and Group B events which can be shown on a pay-per-view basis provided that highlights or delayed broadcast are shown on terrestrial television (e.g. the Open Championship and Test cricket matches played in England). Restricting the broadcasting of events in this manner could restrict competition, thus limiting the income stream which may be derived from the sale of broadcasting rights in relation to such sporting events.

85. *Clause 25* obliges the Secretary of State to conduct a review of the sporting events currently listed as Group A events and Group B events for the purpose of the Broadcasting Act 1996 and, if he or she thinks necessary, to amend or revoke the list. As part of the review, the Secretary of State must consult broadcasters, governing bodies of sport, holders of concerned sports or other rights and other interested parties.

**Clause 26: Regulations: supplementary**

86. *Clause 26* contains supplementary provisions about the making of regulations under the Bill.

87. *Subsection (2)* sets out in more detail what restrictions and flexibilities will apply to the making of regulations under *section 11*. For example, the regulations may disapply existing legislation about the control of advertising. In order to ensure consistency with the advertising restrictions in the Town and Country Planning Act 1990, the regulations may apply (with any necessary modifications) to Crown bodies. In addition, the regulations under *section 11* will be subject to the negative resolution procedure.

88. *Subsection (3)* requires the Secretary of State to undertake consultation before making any regulations under *section 11*, including by consulting people who represent interests within the advertising industry which are likely to be affected by the regulations.

89. *Subsection (4)* sets out in more detail what restrictions and flexibilities will apply to regulations made under *section 12*. In particular, the regulations may disapply existing legislation in relation to street trading (including legislation about markets) and exceptions to the application of the regulations may be provided. For example, exceptions may be provided to permit certain news vendors and milk floats to trade in the vicinity of venues. Exceptions may also allow charitable sales. In addition, the regulations under *section 12* will be subject to the negative resolution procedure.

90. *Subsection (5)* requires the Secretary of State, before making regulations, to consult those authorities responsible for licensing relevant trading and persons representing interests likely to be affected by the regulations. *Subsection (6)* gives these regulations precedence over any other trading licence granted before or after the regulations are made, including rights granted under enactments and Charters.

91. The regulations passed by the Secretary of State are paramount. Under *subsection (7)*, to the extent that any regulations made under this Bill conflict with the rules of a governing body of sport, the regulations will prevail and the governing body of sport is required to amend its rules accordingly without undue delay.

92. Under *subsection (8)*, to the extent that any regulations made under this Bill conflict with the rules of an international governing body of sport, the regulations will prevail. For these

*These notes refer to the Governance of Sport Bill [HL]  
as introduced in the House of Lords on 11th June 2014 [HL Bill 20]*

purposes, the term “international governing body of sport” includes any body which (i) serves as an international ruling body for a sport or for a sporting event involving one or more sports at an international level, (ii) selects sports teams at an international level, (iii) operates a licensing system at an international level authorising the conduct of sporting events, or (iv) exercises disciplinary authority over one or more sports on an international basis.

**Clause 27: Extent, commencement and short title**

93. *Clause 27* deals with citation, extent and commencement.

**EUROPEAN CONVENTION ON HUMAN RIGHTS**

94. In the view of Lord Moynihan the provisions of the Governance of Sport Bill [HL] are compatible with the Convention rights.

# GOVERNANCE OF SPORT BILL [HL]

## EXPLANATORY NOTES

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