

EXPLANATORY MEMORANDUM TO
THE BREACHING OF LIMITS ON TICKET SALES REGULATIONS 2018

2018 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Digital, Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes it a criminal offence to purchase more tickets than the maximum permitted for a recreational, sporting or cultural event in the UK, where the purchase is made electronically through the use of software designed for this purpose, and where the intent is to obtain financial gain.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 This entire instrument applies only to England, Wales and Scotland.

3.3 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland.

4. Legislative Context

4.1 S.106 of the Digital Economy Act 2017 provides the power to introduce a criminal offence of purchasing tickets for a recreational, sporting or cultural event in excess of the maximum permitted where the purchase has been undertaken electronically. The intended offence applies to tickets purchased electronically for events that take place in the UK, but covers activity to obtain tickets that occurs outside the UK. The intended offence will be summary only, with a maximum punishment of an unlimited fine in England and Wales, and an exceptional summary maxima in Scotland, as Magistrates courts in Scotland do not have the power to impose unlimited fines.

4.2 This instrument is to be made pursuant to the s106 power. The regulations limit the commission of the offence to a situation in which software designed for the purpose is used to purchase the tickets and the alleged offender intends to make a financial gain for themselves or any other person.

5. Extent and Territorial Application

5.1 The extent of this instrument is England, Wales and Scotland.

5.2 The territorial application of this instrument is England, Wales and Scotland.

5.3 Consumer rights law is reserved in Scotland and Wales, but is a transferred matter for Northern Ireland. S.106 of the Digital Economy Act 2017 was not commenced in

Northern Ireland, although it is the intention for it to be commenced and for this instrument to apply to Northern Ireland once legislative consent is able to be secured.

6. European Convention on Human Rights

6.1 The Secretary of State for Digital, Culture, Media and Sport has made the following statement regarding Human Rights:

“In my view the provisions of The Breaching of Limits on Ticket Sales Regulations 2018 are compatible with the Convention rights.”

7. Policy background

What is being done and why

7.1 The Government recognises that the process for distributing and buying tickets can often be a cause for public frustration and concern, and is committed to improving consumers’ chances of buying tickets at a reasonable price. A number of measures are already in place under the Consumer Rights Act 2015 relating to the level of information about tickets that should be provided to purchasers using the secondary market, and S.105 of the Digital Economy Act 2017 strengthened these measures by adding an additional requirement for ticket sellers to provide a unique ticket number when re-selling a ticket, where one has originally been given.

7.2 A particular concern has been when tickets very quickly become unavailable on the primary ticketing market, only to be put up for resale almost immediately at greatly inflated prices on the secondary market. There is evidence that this is largely caused by the use of software (‘bots’) to automate the ticket purchasing process on the primary market to circumvent limits on the maximum number of tickets that can be purchased.

7.3 This issue was specifically addressed by Professor Waterson in his review of consumer rights provisions relating to online ticket sales pursuant to S.94(1) of the Consumer Rights Act 2015. His view, which the Government shares, was that ticket sellers should adopt strategies to prevent automated ticket purchasing by ‘bots’, although he also noted that there was some uncertainty over the existing legal position on their use.

7.4 This instrument clarifies the law in this area by creating a criminal offence of purchasing more tickets than the maximum permitted for a recreational, sporting or cultural event, where the purchase has been undertaken electronically, where software designed for the purpose is used to purchase the tickets and where the intent is for any person to obtain financial gain. The offence applies to tickets purchased electronically for events in England, Wales and Scotland, but covers activity to obtain tickets that occurs outside the UK. It is the intention for this instrument to apply to Northern Ireland once legislative consent is able to be secured.

Consolidation

7.5 No consolidation is required.

8. Consultation outcome

8.1 An informal consultation, undertaken by the Department for Business, Energy and Industrial Strategy, on behalf of that Department and DCMS, on implementing both

S.105 and S.106 of the Digital Economy Act 2017 was undertaken over the Summer of 2017. Over a hundred organisations and businesses with an interest in the event ticketing market were consulted, including cultural and sporting event organisers, consumer groups and primary and secondary ticketing agencies. As well as written responses from a number of key organisations, meetings were held with several organisations with an interest in this area, as well as a roundtable meeting with a range of sporting bodies.

- 8.2 Most of the responses related specifically to the additional information requirement in S.105 of the Digital Economy Act 2017. On S.106, consultees were supportive and there was no opposition from respondents to its implementation. A list of those who responded to the consultation specifically on S.106 can be found at <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-11-28/116211/>

9. Guidance

- 9.1 Publicity was undertaken last year by the Department for Digital, Culture, Media and Sport setting out the detail and scope of the intended offence under S.106 of the Digital Economy Act 2017. This was repeated at the beginning of 2018 to alert stakeholders to our intention to table the instrument to enact the offence in the Spring, and the draft text of the instrument was made public at the same time on the Department's website. Further publicity will be undertaken to make sure relevant bodies are aware of the new obligation to ensure it is enforced. It is not intended to issue formal guidance on the measure.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument, as the offence will have no impact on businesses, charities, voluntary bodies or the public sector. The only impact will be on those seeking to circumvent online systems set up by the primary ticketing market to purchase more tickets than the maximum allowed.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 A formal review provision is not appropriate as the regulation does not relate to business activity. Nevertheless, the Government will review the effectiveness of the offence once it has had time to bed in, to consider whether there is a need for further action in light of any new evidence presented.

13. Contact

- 13.1 Mr Gwyn Owens at the Department for Digital, Culture, Media and Sport Telephone: 0207 211 6194 or email: gwyn.owens@culture.gov.uk can answer any queries regarding the instrument.