

# Legal awareness register

Guide to legislation and codes  
applicable for SGBs and  
monitoring legal risk

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## INTRODUCTION

This guide sets out key legal issues which apply to SGBs across a range of activities and areas. It is designed to highlight important issues and put these into context for sport generally and not with reference to any particular sport. Appendix 1 contains legal issues that are more relevant to individual sports.

This guide, although comprehensive, is not an exhaustive list of all of the legal issues that sports bodies can encounter in Scotland. Links to additional information are provided where relevant.

Many of the links to additional information are placed in a single section, but can contain information which may cross-over and be useful to other areas.

## GET IN TOUCH

If you have any questions about the contents of this guide, or would like to find out any more information, please don't hesitate to contact us.



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This should be borne in mind, as well as the need to take independent legal advice on these issues, as and when they arise in practise.

The guide does not cover "equalities" or "data protection" as separate comprehensive guides are available from Harper Macleod.

The guide is intended to help SGBs create and maintain their "legal awareness register" and to support members to understand legal issues and risks. A standard legal awareness register appears at appendix 2 with appendix 3 containing guidance on populating and using this register.

The key themes in using a legal awareness register are:

**A.** It is important that the legal awareness register is adopted and supported at the highest level within an SGB.

**B.** A “compliance officer” role can be very useful – someone with overall responsibility for the legal awareness register. This need not be a new role entirely, but rather a role taken on by an existing member of staff.

**C.** You can identify and allocate responsibility for sub-reporting, to maintain an accurate legal awareness register.

**D.** The register can be useful to remind organisations to review their policies regularly, revise and circulate to all relevant parties.

**E.** It can also promote the need to undertake training at appropriate junctures – both internally and externally (a training register may supplement this).

**F.** An SGB should bear in mind the need to adopt a “proportionate” approach to the register, both in the areas covered and the detail applied.

**G.** An SGB should also consider and set what is an appropriate level of scrutiny of the register – the level

within the organisation and the frequency of reporting.

**H.** The register will help to accumulate and pass on knowledge within the organisation.

**I.** It should be seen as a key strategic tool to help channel resource and reduce risk.

**J.** It can supplement or be incorporated into a general awareness register if the SGB maintains a general awareness register.

**sportscotland's** expert resource framework offers multi-disciplinary advice across finance, HR and law. For all legal issues, call the legal helpline on 0141 227 9333 to speak to specialist solicitors at Harper Macleod LLP or email [sportscotlandinfo@harpermacleod.co.uk](mailto:sportscotlandinfo@harpermacleod.co.uk).

Although this note is accurate as of December 2015, the note does not constitute legal advice to any SGB and advice should be sought, as opposed to relying on this document, which is introductory only.

Lastly, all references to statutes are to those in force at the time, as amended from time to time, to December 2015.





# 1. CORPORATE STRUCTURES

SGBs and sports organisations will operate through a variety of business models.

Organisations which have incorporated will have to consider the implications of the Companies Act and other relevant pieces of legislation.

Unincorporated organisations may wish to incorporate and must consider the legal process to do so and the best model to choose, such as incorporating a company, entering a partnership or incorporating as a charity.

## Legislation

- Companies Act 2006 and all statutory instruments enacted under the Companies Act 2006 (e.g. business name regulations, trading disclosure regulations and so on)
- Possible competition law aspects under various European Community Regulations

## Key Legal Issues

- Incorporation – which medium to choose?
  - Company (limited by share or by guarantee?)
  - SCIO?
  - Charity?
- Investments and funding – i.e. for incorporated organisations will funding come from shareholder investments?
- Group structures or partnerships – i.e. forming partnerships with charities?
- Joint ventures, mergers and acquisitions

## In Practice

- The regulatory framework under

the Companies Act imposes various record-keeping and filing obligations on incorporated organisations.

- For incorporated organisations there is a need to understand and adhere to any legal requirements such as filing annual accounts and changes to office holders. Typically, the company secretary will maintain an awareness of these matters.
- For incorporated organisations the memorandum and articles of association must be adhered to. The organisation should not depart from these. Rules or procedures (discipline, conduct, etc) should be set in accordance with the articles
- For unincorporated organisations, the constitution and powers of committee must be clearly recognised and understood.
- For all organisations, the rules (the articles and/or constitution) must be refreshed and kept up to date, reflecting how the organisation wishes to organise itself.

## Key People

- Office holders, executives, senior personnel, Board / Committee members.

## Sources of Further Information

- Companies House  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)
- Clubs information & legal structures
- **sportscotland**  
[www.sportscotland.org.uk/clubs/help-for-clubs](http://www.sportscotland.org.uk/clubs/help-for-clubs)

## 2. GOVERNANCE

It is very important to understand the framework in which governance operates.

Companies and charities will have various legal requirements to comply with, from submitting yearly forms to directors and/or trustees duties, through to the need for proper policies and procedures in relation to key areas such as anti-bribery. These requirements flow from the corporate form adopted. However, unincorporated organisations must equally adopt good governance practices.

Ancillary issues can arise in relation to events and matches. Sport is a prime target for many corrupt practices and there is a need to be aware of the threats that can be faced. Issues such as match-fixing are relevant throughout sports and can be just as applicable in less televised or covered sports as they can be in more publicly prominent sports.

The award of contracts of the appointment of persons to key positions can be the subject of bribes and risk falling foul of the Bribery Act 2010. Otherwise, most issues are a matter of self regulation.

Good corporate governance principles promote good performance whilst helping guard against unlawful practices.

### Legislation

- Companies Act 2006
- Charities and Trustee Investment (Scotland) Act 2005
- Bribery Act 2010

### Key Legal Issues

- Compliance with the Companies Act 2006 – particularly director's duties, accounts and filing.
- Memorandum and Articles of Association/ Company Rules/organisational constitution must be followed and adhered to.
- Appropriate governance structures and systems for managing and administering the sport should be adopted.
- Ruling making and regulatory framework must be clear and concise.
- Ethical standards e.g. anti-bribery/ corruption/anti-doping policies and disciplinary procedures must be promoted.
- Rights and responsibilities of relevant internal and external stakeholders.
- Confidentiality agreements and conflict of interest declarations with committee/board members.
- Dealing with governance challenges e.g. upholding standards.
- Rules and procedures concerning corruption in sport and anti-bribery must be promoted and enforced.



## 3. EMPLOYMENT

Many sports organisations will employ a variety of people, with people enjoying different legal status. These people have many legal rights. Sports organisations must adhere to and appreciate the laws governing the employment relationship.

Aspects of employment law can apply even prior to the employment relationship, particularly in relation to equality and discrimination. For example, employers must not discriminate in their recruitment processes and must have processes which are in line with the Equality Act 2010. There may also be cases when employees are transferred to an organisation and "TUPE" comes in to play.

There will be times when issues arise for employees which require to be dealt with appropriately, such as harassment and discrimination, and there is also a need to have appropriate grievance policies and procedures in place for this.

The status of people working in sport is often misunderstood, but "status" underpins legal rights and must necessarily be understood.

### Legislation

- Employment Rights Act 1996
- Equality Act 2010
- Working Time Regulations 1998
- The Maternity and Parental Leave Regulations 1999
- The Paternity and Adoption Leave Regulations 2002

- The Shared Parental Leave Regulations 2014
- The Flexible Working Regulations 2014
- Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

### Key Legal Issues

- Advertising for roles/recruitment
- Equality policies and procedures (avoiding discrimination, bullying and harassment)
- Sports persons' contracts; transfer of registrations
- Status
  - Self employed
  - Worker
  - Employee
- Appointment of referees/officials and administrators
- Disciplinary and grievance procedures

### In Practice

- A need to ensure that contracts of employment/employment requirements are in proper terms and comply with legislation
- Having adequate policies and procedures in place, known to staff and enforced by managers who understand the essentials, having been trained in HR essentials.
- Using performance and attendance management tools correctly, to encourage good behaviours.
- Being aware of the legal requirements if planning to end an employment relationship, such as through redundancy or unfair/wrongful dismissal and the rights that employees have.





## 4. WORK VISAS

People may need permissions to participate or work in Scotland with sports organisations. Therefore, organisations must be aware of the legal framework in surrounding work visas and immigration, and the process to follow in relation to this.

### Legislation

- Immigration Act 1971
- UK Borders Act 2007
- Borders, Citizenship and Asylum Act 2009
- Immigration and Asylum Act 1999

### Key Legal Issues

- The employment of foreign nationals (playing and non-playing staff)
- Non-EEA status
- Visa applications through the points based system
- Employer sponsorship licenses
- License renewal
- Home Office compliance audits for sponsors
- Tier 2 (Sportsperson) Visas
- Tier 5 (Temporary Worker – Creative and Sporting) Visas
- UK sports visitor visas
- Visa extensions

### In Practice

- Sports organisation should have procedures in place and know how to arrange for work visas and administration of them if they are likely to have overseas participants (whether athletes or trainers etc).
- Some organisations may wish to “sponsor” certain athletes or other persons and a practical knowledge of the processes involved around visas and sponsorship can be very useful.

### Key People

- CEO, Company Secretary / Secretary, HR

### Sources of Further Information

- Home Office – Immigration Rules Appendix M, and other guidance on Tier 2 and Tier 5 Visas  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/420559/20150406\\_immigration\\_rules\\_appendix\\_m\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/420559/20150406_immigration_rules_appendix_m_final.pdf)
- UK Visa Sponsorship for Employers  
<https://www.gov.uk/uk-visa-sponsorship-employers/overview>

# 5. CHILD PROTECTION / SAFEGUARDING ISSUES

Many sports organisations will have participants at child and youth level who are going to be under the care and supervision of coaches or trainers. These young people need protection and the persons supervising them need to be suitably qualified and properly regulated.

## Legislation

- Police Act 1997
- Protection of Vulnerable Groups (Scotland) Act 2007
- Children and Young People (Scotland) Act 2014

## Key Legal Issues

- Legal responsibilities of sporting organisations providing services to children and other vulnerable people
- Policies, practices and procedures to safeguard children from all forms of harm, abuse, neglect and exploitation
- Codes of conduct for staff/volunteers, parents/guardians and children and young people
- Training, supervision, information and support requirements
- Measures for reporting, investigating and dealing with suspicions and incidents
- Dealing with difficult disclosures and situations where there are allegations of child abuse

## In Practice

- Ensuring proper policies are in place and followed to keep children safe
- Having appropriate channels to raise and identify concerns and to take swift action
- Being mindful/raising awareness of what child abuse and related issues are and knowing the warning signs – linked to the need to have effective communication, monitoring and reporting policies.

## Key People

- All of Board/Committee; Key personnel in managerial positions; Safeguarding officer

## Sources of Further Information

- **sportscotland**  
[www.sportscotland.org.uk/clubs/help-for-clubs](http://www.sportscotland.org.uk/clubs/help-for-clubs)
- Safeguarding in Sport  
<http://www.children1st.org.uk/what-we-do/our-services/search-our-services/safeguarding-in-sport>

## 6. COMMERCIAL & SPONSORSHIP AGREEMENTS

Sports organisations will enter in to many different types of commercial and sponsorship agreements. Examples of these are numerous and vary across sports.

From high value commercial agreements such as broadcasting, to kit or water supply agreements entered in to by other sporting organisations such as curling or netball teams – all of these agreements will have legal considerations.

Typically, directors and other authorised persons will be the persons who sign these agreements on behalf of the sports organisation. Particular care needs to be given to ensuring that it is clear who can enter into commercial and sponsorship agreements. That is particularly true of organisations that are unincorporated and that tend to be committee run.

### Legislation

- The Companies Acts, in particular the Companies Act 2006
- Unfair Contract Terms Act 1977
- Bribery Act 2010
- Requirements of Writing (Scotland) Act 1995
- Intellectual Property legislation (see “Intellectual Property and Brand Protection”)
- Data Protection Act 1998
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### Key Legal Issues

- Contract law – authority to bind – inducement – misrepresentation – agreement/intention to be bound – consideration (the subject exchanged in a contract e.g. money) – void contracts (i.e. for illegal purposes and not enforceable by law) – voidable contracts (legally valid but can be annulled by one of parties i.e. contracts made with someone who does not have capacity)
- Company law – directors’ authority – authorisation of other individuals – directors’ duties (i.e. conflicts of interest)
- No requirement to record an agreement in writing
- Protection of the SGB’s brand (use, restrictions, termination events)
- Damages for breach of contract

### Sponsorship

- Main terms of sponsorship agreements
- Procurement of sponsorship contracts
- Sponsorship activation and regulation
- Rights and obligations of the sponsor and the sponsored party
- Types of sponsorship agreements relevant to SGB’s:
  - Broadcast sponsorship
  - Venue sponsorship – ‘naming rights’
  - Official supplier agreements
  - Exclusive’ sponsorship agreements



# 7. INTELLECTUAL PROPERTY & BRAND PROTECTION

Sports organisations and bodies may have a right of intellectual property rights which may be infringed by the actions of others. Many sporting bodies will also have built up brand images which can be protected.

It is important for sports organisations to understand the types of intellectual property that exist, how each are protected, and methods available to protect or enforce intellectual property rights.

Any intellectual property owned by a sporting body can also be a valuable commercial commodity for the purposes of licensing for example (Licensing issues are discussed in the section of this register relating to 'Licensing').

## Legislation/Codes

- Copyrights, Designs and Patents Act 1988, and related legislation
- Trade Marks Act 1994, and related legislation
- Council Regulation (EC) No. 207/2009 of 26 February 2009 on the Community trade mark
- Data Protection Act 1998
- Unfair Contract Terms Act 1977

- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
- Consumer Protection from Unfair Trading Regulations 2008
- The UK Code of Non-broadcast Advertising, Sales promotion and Direct Marketing
- The UK Code of Broadcast Advertising

## Key Legal Issues

- Brand management
- Intellectual Property protection – trademarks – patents – design rights (registered and unregistered) – copyright infringement
- Personality and image rights
- Advertising and marketing
- Broadcasting rights
- Merchandising agreements

## In Practice

- Sports organisations should have an awareness of what intellectual property rights they have, such as whether they have a trademark over their logo and whether this has been registered (registration allows the use of the ® symbol, in process registration allows.



## 8. RISK MANAGEMENT

Failure to effectively manage risk can result in serious repercussions for organisations. For example, it may result in litigation, fines and reputational damage. Moreover, with issues such as child protection or health and safety a failure to manage risk can result in harm to others.

### Legislation

- The Insurance Act 2015
- Employers Liability (Compulsory Insurance) Act 1969
- Occupiers' Liability (Scotland) Act 1960
- Consumer Insurance (Disclosure and Representations) Act 2012
- Data Protection Act 1998
- Health and Safety at Work Act

### Key Legal Issues

- Health and safety policies and standards
- Qualifications and training of personnel
- Insurance cover e.g.
  - Employers' liability insurance (this is a statutory requirement)
  - Event liability insurance
  - Key person insurance
  - Public liability insurance
  - Directors liability insurance?

### In Practice

- In practice being organised and having thorough policies and procedures is key to minimising risk.
- Organisations should ensure that they plan ahead and have relevant insurance policies in place.

A system of diary entries should be adopted to avoid non-renewal.

- An insurance review should be conducted to check where any "gaps" in protection exist.

### Key people

Board / Committee, Company Secretary / Secretary, CEO

### Sources of Further Information

- Employers Liability (Compulsory Insurance) Act 1969 – A Guide for Employers <http://www.hse.gov.uk/pubns/hse40.pdf>
- Guidance on Data Protection and Rights <https://www.gov.uk/data-protection/find-out-what-data-an-organisation-has-about-you>
- Freedom of Information Request guidance <https://www.gov.uk/make-a-freedom-of-information-request/the-freedom-of-information-act>
- Information Commissioner's Office (ICO) – Data Protection Subject Access Requests <https://ico.org.uk/for-organisations/guide-to-data-protection/principle-6-rights/subject-access-request/>



# 9. LICENSING

For sports organisations licensing can be relevant in relation to several matters. Sports organisations will organise events, indoors and outdoors, where they may wish to sell alcohol. In some cases they may wish to screen television broadcasts or arrange television broadcasts of their own. Organising an event with any form of gaming, lottery or betting will have implications. These all have licensing considerations around them.

Sports organisations that hold intellectual property rights may also wish to allow others to use these and raise money from such use. Again, licensing is applicable to this.

## Legislation

- Licensing (Scotland) Act 2005 (as amended), with all associated regulations:
- Principally the Licensing (Clubs) (Scotland) Regulations 2007
- Civic Government (Scotland) Act 1982
- Private Security Industry Act 2001

## Key Legal Issues

- Licence applications, arrangements and regulations
- Types of licences relevant to SGB's:
  - Venue licence
  - Public entertainment licence
  - Indoor sports entertainment licence
  - Alcohol licence
  - Licensing of security personnel at events
  - Intellectual property license

agreements e.g. merchandising licence agreements

- Use of exclusive or non-exclusive licences for Intellectual property
- Broadcast license agreements

## In Practice

- An awareness of the types of licences that any given SGB needs/that are applicable to them e.g. the differing licence needs between broadcasted top flight footballs games and amateur or lower league rugby organisations.
- Consider how licences can be used as a source of funding – in some cases with Intellectual Property may be worth considering if it is better financially to licence or assign rights (for example, merchandise, pourage or food).
- Awareness of exclusive and non-exclusive licenses – relevance to Intellectual property and broadcasting licences.

## Key Personnel

Company secretary / secretary

## Sources of Further Information

- Licensing  
[www.gov.uk/topic/business-enterprise/licensing](http://www.gov.uk/topic/business-enterprise/licensing)
- Entertainment Licensing  
[www.gov.uk/entertainment-licensing-changes-under-the-live-music-act](http://www.gov.uk/entertainment-licensing-changes-under-the-live-music-act)
- Licensing Intellectual Property  
[www.gov.uk/licensing-intellectual-property](http://www.gov.uk/licensing-intellectual-property)

## 10. INSOLVENCY

Not every organisation can work indefinitely. Circumstances may arise whereby an organisation's liabilities outweigh its assets and an insolvency procedure is required.

Insolvency proceedings allow for the winding up of an incorporated body if it cannot be rescued in some way.

### Legislation

- Bankruptcy (Scotland) Act 1985 as amended

### Key Legal Issues

There are various types of insolvency procedures with all typically commenced by the appointment of an insolvency practitioner appointed by the court:

- Administration;
- Creditors Voluntary Arrangement;
- Liquidations (compulsory or creditors); and
- Asset Recovery

Be aware that it is contrary to the legislation surrounding incorporation to trade when technically insolvent. An insolvency event protects the creditors of an organisation, but rarely to the full extent of the debt. Typically a fraction is recovered. Creditors rank based on their status.

### In Practice

- Those running sports organisations should seek advice early in the event that they think they will be headed towards an insolvency event.
- If insolvency is feared, giving or transferring away property (gratuitous alienations) can be extremely troublesome and reversed. The risks associated with these types of actions are best avoided.
- Be aware that if you deal with businesses that have financial difficulties, significant difficulty can arise on an insolvency event. Consider whether a personal guarantee could assist (where someone who operates the company guarantees the debt, or performance).

### Sources of Further Information

- The Insolvency Service  
<https://www.gov.uk/government/organisations/insolvency-service>

# 11. DISPUTE RESOLUTION

In the event of alleged infringement of rights, legal proceedings might be contemplated against the other party. From the examples in this register there are a range of areas where sports organisations may become involved in formal litigation or dispute resolution.

There are a host of reasons in which sports organisations may become involved in legal proceedings. They may be the party bringing proceedings (the pursuer) in cases of intellectual property infringement or breach of licence agreements, for example. On the other hand they could also be the person against whom action is being brought (the defender) in cases of breach of contract or where an employee brings an employment action for discrimination, for example.

It can be important to understand the alternative dispute resolution methods which can be available and adopted.

## Legislation

- Court Reform (Scotland) Act 2014
- Arbitration (Scotland) Act 2010

## Key Legal Issues

- Enforcement of sports rules and regulations
- Disciplinary sanctions/proceedings
- Anti-doping prosecutions
- Challenges to the actions of sports governing bodies e.g. a sportsman challenging the decision of a disciplinary, or denial of access to a particular competition
- Contractual disputes with third parties

- Enforcing rights e.g. infringement of intellectual property rights or breach of licensing agreements
- Defending rights or position e.g. if action is brought against an organisation in relation to an employment issue
- Alternative dispute resolution procedures e.g. mediation/arbitration

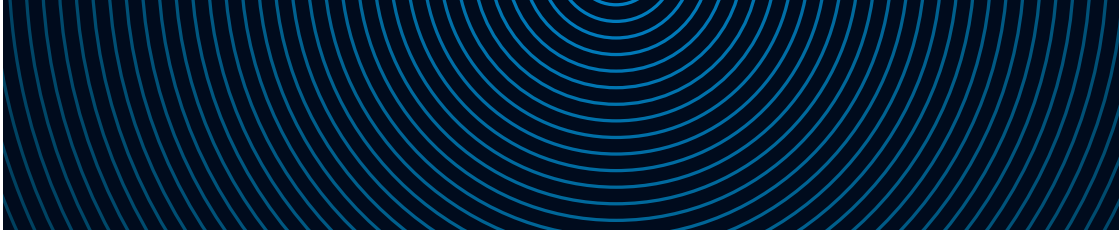
## In Practice

- In terms of bringing actions it is important in practice to understand the rights that an organisation has so that it can be identified when rights have been infringed; costs must be understood, as should overall timescales
- It is important to appreciate how issues should be dealt with and the cost/time implications of different dispute resolution methods.
- In terms of defending actions sports organisations should have robust policies and procedures to deal with challenges to issues like disciplinary proceedings. The clearer and more understandable proceedings are the less likely it is for parties to be confused.
- Timescales are critical in many ways – for raising and responding to proceedings.
- Preserve evidence (disputes are almost always won or lost on the evidence)
- Notify insurers?

## Key People

- Chair / CEO / Company Secretary





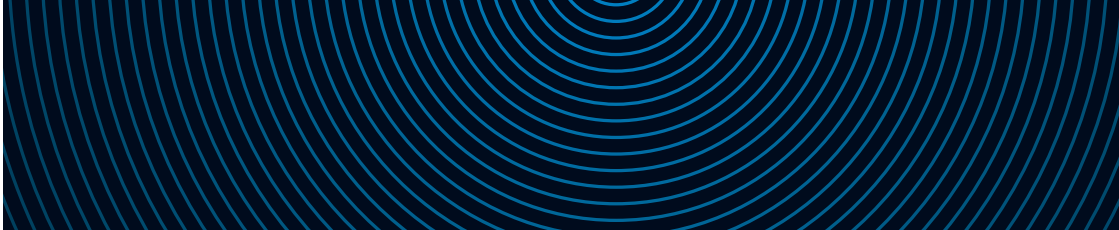
Sport / SGB	Legislation / legal issue	Comments
<p>Royal Yachting Association</p>	<p>Merchant Shipping Act 1995</p> <p>Marine and Coastal Access Act 2009</p> <p>Marine (Scotland) Act 2010</p> <p>Regulatory Reform (Scotland) Act 2014 – amended marine licensing provisions in 2010 Act</p> <p>Various Orders (as listed in Scottish Rowing) which can be applicable to yachting</p> <p>British Fishing Boats Act 1983 – partially repealed by the Deregulation Act 2015 but Scottish provisions still in force</p> <p>Inshore Fishing (Scotland Act) – amended the Inshore Fishing (Scotland) Act 1984 – relate to control of fishing in Scottish inshore waters by vehicles or equipment</p> <p>Sea Fishing Grants (Charges) Act 2000 – to ensure the validity of charges made in the administration of certain grant schemes relating to sea fishing</p> <p>Sea Fishing (Illegal, Unreported and Unregulated Fishing) (Scotland) Order 2013</p> <p>Sea Fishing (Points for Masters of Fishing Points) (Scotland) Regulations 2014</p> <p>Sea Fishing (EU Control Measures) (Scotland) Order 2015</p>	



# EQUALITIES ISSUES IN SPORT

Sport / SGB	Legislation / legal issue	Comments
<p>Scottish Association of Car Clubs (SACC)</p>	<p>Road Traffic Regulation (Parking) Act 1986</p> <p>Road Traffic Act 1988.</p> <p>Road Traffic (Driver Licensing and Information Systems) Act 1989</p> <p>Road Traffic (Foreign Vehicles) Act 1972</p> <p>Road Traffic Act 1991.</p> <p>Traffic Signs Regulations and General Directions 2002 – Regs 30(9)(a), (20)(b), (21)(a) and 31(7)(c) in relation to providing for parking for car clubs</p> <p>Road Safety Act 2006</p> <p>Insurance Act 2015</p>	
<p>Scottish Auto-Cycle Union</p>	<p>Road Traffic (Foreign Vehicles) Act 1972</p> <p>Road Traffic Offenders Act 1988</p> <p>Road Traffic Act 1988</p> <p>Road Traffic (Driver Licensing and Information Systems) Act 1989</p> <p>Road Traffic Act 1991</p> <p>Road Safety Act 2006</p> <p>Insurance Act 2015</p>	





Sport / SGB	Legislation / legal issue	Comments
<p>Scottish Canoe Association</p>	<p>Water Environment and Water Services (Scotland) Act 2003 (as amended)</p> <p>Land Reform (Scotland) Act 2003 – regarding the inclusion of access to water</p> <p>Adventure Activities Licensing Regulations 2004</p> <p>Recreational Craft Regulations 2004 – Section 4 concerning excluded products</p> <p>Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended)</p> <p>The Scottish Outdoor Access Code</p> <p>Various Orders (as listed in Scottish Rowing) which can be applicable to canoeing</p>	
<p>Scottish Cycling</p>	<p>Road Traffic Act 1988</p> <p>Road Traffic Offenders Act 1988 e.g. regarding requirement of warning etc of prosecutions for certain offences under Section 1</p> <p>Road Traffic Act 1991 – Section 7 “Cycling Offences” inserted in to Section 28 of Road Traffic Act 1988</p> <p>Road Safety Act 2006 – e.g. Section 167(a) – power of arrest in Scotland for reckless or careless driving or cycling</p>	



# LEGAL AWARENESS REGISTER

Sport / SGB	Legislation / legal issue	Comments
<p>Scottish Federation for Coarse Angling</p>	<p>British Fishing Boats Act 1983 – partially repealed by the Deregulation Act 2015 but Scottish provisions still in force</p> <p>Inshore Fishing (Scotland Act) – amended the Inshore Fishing (Scotland) Act 1984 – relate to control of fishing in Scottish inshore waters by vehicles or equipment</p> <p>Sea Fishing Grants (Charges) Act 2000 – to ensure the validity of charges made in the administration of certain grant schemes relating to sea fishing</p> <p>Sea Fishing (Illegal, Unreported and Unregulated Fishing) (Scotland) Order 2013</p> <p>Sea Fishing (Points for Masters of Fishing Points) (Scotland) Regulations 2014</p> <p>Sea Fishing (EU Control Measures) (Scotland) Order 2015</p>	
<p>Scottish Orienteering Association</p>	<p>Scottish Outdoor Access Code (supports the 2003 Act)</p> <p>Land Reform (Scotland) Act 2003</p> <p>Nature Conservation (Scotland) Act 2004</p>	
<p>Scottish Rowing</p>	<p>Land Reform (Scotland) Act 2003 – regarding the inclusion of access to water</p> <p>Recreational Craft Regulations 2004</p> <p>Adventure Activities Licensing Regulations 2004</p>	





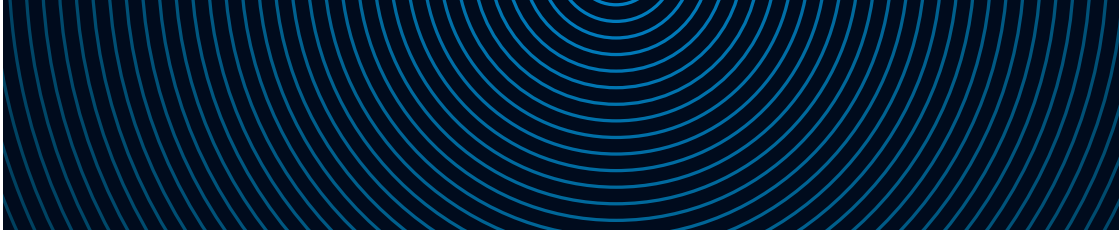
Sport / SGB	Legislation / legal issue	Comments
Scottish Sub Aqua Club	Land Reform (Scotland) Act 2003 Water Environment and Water Services (Scotland) Act 2003 Nature Conservation (Scotland) Act 2004 Adventure Activities Licensing Regulations 2004 Marine and Coastal Access Act 2009 Marine (Scotland) Act 2010 Scottish Outdoor Access Code	
Scottish Target Shooting	Firearms Act 1968 – section 1 certificate requirement and section 11 sporting use exemptions Firearms (Dangerous Air Weapons) (Scotland) Rules 1969 Firearms (Dangerous Air Weapons) (Scotland) Amendment Rules 1993 Air Weapons and Licensing Act 2015 – not yet in force	
Snowsport Scotland	Land Reform (Scotland) Act 2003 Adventure Activities Licensing Regulations 2004 Nature Conservation Act 2004 Scottish Outdoor Access Code	



# LEGAL AWARENESS REGISTER

Sport / SGB	Legislation / legal issue	Comments
<p>The Mountaineering Council of Scotland</p>	<p>Land Reform (Scotland) Act 2003</p> <p>Scottish Outdoor Access Code (supports the 2003 Act)</p> <p>Nature Conservation (Scotland) Act 2004</p> <p>Nature Conservation (Designation of Relevant Regulatory Authorities) (Scotland) Order 2004/474</p> <p>Nature Conservation (Scotland) Act 2004 (Authorised Operations) Order 2011/419</p> <p>Register of Sites of Special Scientific Interest (Scotland) Regulations 2008/221</p>	
<p>The Scottish Surfing Federation</p>	<p>Water Environment and Water Services (Scotland) Act 2003 (as amended)</p> <p>Land Reform (Scotland) Act 2003</p> <p>Scottish Outdoor Access Code (supports the 2003 Act)</p> <p>Nature Conservation (Scotland) Act 2004</p> <p>Adventure Activities Licensing Regulations 2004</p> <p>Marine and Coastal Access Act 2009</p> <p>Marine (Scotland) Act 2010</p> <p>Poole Harbour Revision Order 2012 – purposes for which byelaws may be made include regulating or prohibiting surfing in the harbour</p>	

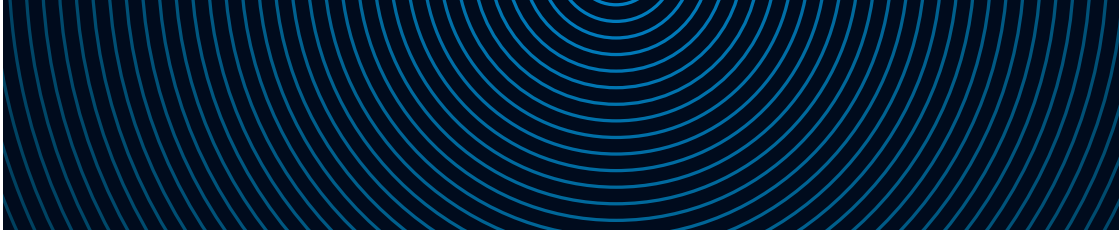




Sport / SGB	Legislation / legal issue	Comments
<p>Triathlon Scotland</p>	<p>Road Traffic Offenders Act 1988 e.g. regarding requirement of warning etc of prosecutions for certain offences under Section 1</p> <p>Road Traffic Act 1991 in relation to cycling</p> <p>Road Traffic Act 1991 – e.g. Section 31 on regulation of cycling racing on public ways</p> <p>Land Reform (Scotland) Act 2003</p> <p>Nature Conservation (Scotland) Act 2004</p> <p>Road Safety Act 2006</p>	
<p>Waterski &amp; Wakeboard Scotland</p>	<p>Scottish Outdoor Access Code (supports the 2003 Act)</p> <p>Adventure Activities Licensing Regulations 2004</p> <p>Nature Conservation (Scotland) Act 2004</p> <p>Marine and Coastal Access Act 2009</p> <p>Marine (Scotland) Act 2010</p>	







Name of relevant legislation	Practical Implications/ Relevance to SGB	Relevance Rating 1-5	Person Responsible	Date last checked	Risk to SGB/ Reference to Awareness register	Action to Mitigate	Completed by/on

**Key – Relevance Rating**

- 1: Low relevance checked
- 2: Low-Mid relevance checked
- 3: Mid relevance checked
- 4: Mid-High relevance checked
- 5: High Relevance checked quarterly



# APPENDIX 3

## GUIDANCE TO USING THE LEGAL AWARENESS REGISTER

1. The legal awareness register is a document allowing SGBs to capture the legal issues arising in their sport.
2. There is no right or wrong form to a legal awareness register; SGBs do not need to adopt a legal awareness register in a uniform manner. The structure, layout and style can differ.
3. The register stands as a document that should be maintained and updated as legal issues develop, for example be it new legislation, new statutory guidance, new case law, or events or accidents occurring.
4. An SGB may decide to list only significant live issues within its awareness register, such as events that may give rise to legal risk. These may include, for example, (i) an accident having occurred and a claim having been intimated; (ii) a dispute with an employee that has led to a claim being intimated by a solicitor for the employee;  
(iii) new legislation being introduced that will require participants to hold a license and as a result operational change is required.
5. The aforementioned events are all of a type that typically give rise to "risk" and can be included in a standalone legal awareness register. Equally, they can be listed in the SGB's general awareness register.
6. The legal awareness register can also include, or focus on, ongoing legal issues and operate so as to focus the SGB on ensuring that it is aware of and up to speed with legal issues affecting its business.
7. Examples of this more general and ongoing legal awareness may be to list the key pieces of legislation affecting an important operational area within the sport, such as safeguarding, and to assign those issues to a person who is responsible for maintaining and improving the SGB's knowledge and awareness of that issue.

**8.** SGBs can judge the level of detail required in respect of individual issues, but the intention of the legal awareness register is to keep a concise record of the important issues that the SGB faces in order to ensure that the SGBs key persons can assess the legal issues "at a glance".

**9.** Where an important new development arises, it may be appropriate to separate that issue into a new sub-report. Individual operational areas should also maintain their own records and reports relating to their own operational areas. Good examples are that of HR and finance.

**10.** It is also important to keep the register relevant; historic issues that are closed and have no relevance to the organisation should be removed. Retaining past versions of the register may be useful for the SGB, but there is no need to retain historic issues on the current version of the register as and when it develops.



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Harper Macleod is a leading independent Scottish law firm that is driven to deliver.

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