

# Football Governance Bill [HL]

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## AMENDMENTS

### TO BE MOVED

#### IN COMMITTEE OF THE WHOLE HOUSE

*[Supplementary to the Sixth Marshalled List]*

Amendment  
No.

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#### Clause 60

LORD BIRT

- 295A★** Clause 60, page 49, line 21, after “given” insert “and to the extent that the question or questions for resolution relate to financial distributions, that mediator must be appointed in accordance with the requirements in section (Appointment of mediator) to section (Guidance and review)”

#### After Clause 60

LORD BIRT

- 297A★** After Clause 60, insert the following new Clause—

**“Appointment of mediator**

- (1) Where any question for resolution relates to financial distributions between specified competition organisers, the IFR must appoint as a mediator a person who—
  - (a) holds, or has held, high judicial office within the meaning of the Constitutional Reform Act 2005,
  - (b) has significant experience in sports law or competition law at a senior level, and
  - (c) has not, within the five years preceding appointment—
    - (i) held any position with a regulated club or competition organiser;
    - (ii) had any material financial interest in a regulated club or competition organiser;
    - (iii) acted in any professional capacity that might reasonably be considered to affect their independence in relation to matters under this Part.
- (2) Before appointing an mediator to which this section applies, the IFR must consult with specified competition organisers.”

## LORD BIRT

**297B★** After Clause 60, insert the following new Clause –

**“Resolution process and initial procedures**

- (1) This section applies where mediation under section 60 comes to an end by virtue of the occurrence of an event within section 60(6)(b), (c) or (d).
- (2) As soon as reasonably practicable after the occurrence of an event under subsection (1), the IFR must appoint an arbitrator and refer the matter to arbitration.
- (3) A person appointed as an arbitrator under subsection (2) must be a person who the IFR considers to have appropriate skills and experience and, if the dispute relates to financial distributions between specified competition organisers, must be a person who meets the requirements of section (*Appointment of mediator*)(1).
- (3) Upon the referral under subsection (2), the arbitrator must –
  - (a) within 14 days, notify all specified competition organisers –
    - (i) that a referral has been made by the IFR,
    - (ii) of the grounds for referral,
    - (iii) of the timetable for proceedings,
    - (iv) of their rights to make representations, and
  - (b) establish a resolution period of 90 days beginning with the date of notification.
- (3) During the resolution period, each specified competition organiser must –
  - (a) submit initial proposals for financial distribution arrangements including detailed financial projections, implementation mechanisms, supporting evidence and impact assessments;
  - (b) engage constructively in resolution discussions;
  - (c) provide such information as the arbitrator reasonably requires;
  - (d) maintain confidentiality of commercially sensitive information.
- (4) The arbitrator must, during the resolution period –
  - (a) facilitate structured discussions between parties;
  - (b) evaluate submitted proposals against the principles in section (*Principles of determination*);
  - (c) identify areas of potential compromise;
  - (d) provide non-binding recommendations for resolution;
  - (e) maintain detailed records of all submissions received, discussions held, positions taken by parties and, attempts at compromise.
- (5) The arbitrator may –
  - (a) extend the resolution period once by up to 30 days where all parties agree or substantial progress toward agreement is being made;
  - (b) require parties to attend meetings;
  - (c) appoint independent experts to provide analysis;
  - (d) establish working groups on specific issues.”

## LORD BIRT

**297C★** After Clause 60, insert the following new Clause –

**“Determination process**

- (1) Where no agreement is reached during the resolution period, the arbitrator must commence determination proceedings by –
  - (a) notifying all parties within seven days that determination will proceed;
  - (b) establishing a 60-day determination period;
  - (c) requiring final submissions from all parties within 21 days including detailed financial proposals, supporting evidence and analysis for their respective positions, implementation plans and an assessment of the impact of that party’s proposal.
- (2) During the determination period, the arbitrator must –
  - (a) evaluate all submissions against the principles in section (*Principles of determination*);
  - (b) consider –
    - (i) the evidence presented by the parties;
    - (ii) any expert analysis;
    - (iii) any systemic implications;
    - (iv) the practicality of implementing the parties’ proposals;
  - (c) maintain detailed records of all evaluation processes;
  - (d) protect commercially sensitive information.
- (3) The Arbitrator must within the determination period –
  - (a) reach a determination that –
    - (i) meets all principles in section (*Principles of determination*);
    - (ii) is practically implementable;
    - (iii) includes clear transitional provisions;
  - (b) prepare a detailed determination report including –
    - (i) analysis of all submissions;
    - (ii) reasoning for decisions made;
    - (iii) assessment against principles;
    - (iv) implementation requirements;
  - (c) notify all parties of the determination.”

## LORD BIRT

**297D★** After Clause 60, insert the following new Clause –

**“Principles of determination**

Any determination under section (*Determination process*)(3) must –

- (a) be necessary to advance the IFR's objectives in section 6, consistent with its general duties and regulatory principles in sections 7 and 8;

- (b) represent the least intrusive measures necessary to advance those objectives, and in particular to ensure the financial sustainability of prudently-run clubs;
- (c) respect the following fundamental rights and interests –
  - (i) the contractual and property rights of regulated clubs and competition organisers;
  - (ii) the legitimate commercial interests of regulated clubs and competition organisers;
- (d) have regard to whether the parties have acted in good faith in connection with the resolution process under this Part;
- (e) not result in any prudently-run regulated club being at risk of breaching its obligations under the rules of the relevant specified competition organiser or other applicable financial rules;
- (f) maintain the competitiveness of English football;
- (g) preserve the appeal of competition for domestic and global audiences;
- (h) enable sustainable long-term investment in facilities, development and communities;
- (i) enable appropriate investment in competitive football;
- (j) maintain the system-wide financial stability of English football.”

LORD BIRT

**297E★** After Clause 60, insert the following new Clause –

**“Implementation**

- (1) The determination under section (*determination process*) may specify –
  - (a) detailed implementation timing,
  - (b) transitional arrangements,
  - (c) compliance requirements, and
  - (d) any other conditions deemed necessary.
- (2) No determination may –
  - (a) take effect during a football season;
  - (b) require implementation in less than six months;
  - (c) create material risk to system stability;
  - (d) compromise existing regulatory compliance.”

LORD BIRT

**297F★** After Clause 60, insert the following new Clause –

**“Appeals regime**

- (1) Any party may appeal a determination to the Competition Appeal Tribunal within 28 days on grounds of –
  - (a) error of law;

- (b) material error of fact;
  - (c) procedural unfairness;
  - (d) irrationality.
- (2) Appeals must specify the grounds in detail, provide supporting evidence, propose alternative solutions and address implementation implications.
- (3) The Competition Appeal Tribunal may –
- (a) dismiss the appeal,
  - (b) vary the determination,
  - (c) remit for reconsideration, and
  - (d) make consequential orders.”

LORD BIRT

**297G★** After Clause 60, insert the following new Clause –

**“Guidance and review**

- (1) Before the first appointment of any arbitrator under section (*Appointment of mediator*) the IFR must publish guidance on –
- (a) arbitration procedures;
  - (b) determination criteria including evidence standards and assessment, impact evaluation and implementation requirements;
  - (c) implementation processes.
- (2) Before publishing guidance, the IFR must consult specified competition organisers.
- (3) The IFR must keep under review and if necessary update guidance published under this Part.”

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*17 December 2024*

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