



Scottish FA Football Agent Regulations Explanatory Note

Following the launch of the new FIFA Football Agent Regulations (“**FFAR**”) on 9 January 2023, all FIFA member associations were required to implement domestic Football Agent Regulations which comply with the mandatory provisions of the FFAR by 1 October 2023.

On 19 June 2023, The FA confirmed that a group of football agencies had commenced arbitration proceedings to challenge the implementation by The FA of its domestic Football Agent Regulations. As a result, The FA delayed the implementation of its domestic Football Agent Regulations (to the extent upheld by the Tribunal) until the Tribunal’s decision was confirmed.

Given that the outcome of the arbitration in England would be based on the same underlying law and principles as apply in Scotland, the Scottish FA also took the decision to delay the implementation of its domestic Football Agent Regulations in line with the timing outlined by The FA. It was therefore confirmed that the Scottish FA Working with Intermediaries Regulations (the “**Intermediary Regulations**”) would remain in force until further notice.

The outcome of The FA arbitration proceedings was confirmed on 30 November 2023 and the Tribunal thereafter issued its full decision on 14 December 2023.

The Scottish FA’s Football Agent Regulations (“**SFAFAR**”) will therefore now enter into force on 1 January 2024 and will replace the Intermediary Regulations.

The SFAFAR will apply to any **national** transfer or transaction involving Scottish clubs (i.e. a player or coach moving from one Scottish club to another Scottish club or signing a contract extension or as a free agent with a Scottish club). Please refer to Regulation 2 of the SFAFAR for detailed information regarding the scope of these Regulations. For all **international** transactions, the FFAR shall apply.

Detailed below are some key points to note in relation to the application of the SFAFAR. This list is not exhaustive and should be read in conjunction with the full content of the FFAR and the SFAFAR, both of which can be found on the Scottish FA website.

Jurisdiction (SFAFAR Regulations 3.3 and 5.1)

A Football Agent providing Football Agent Services within the jurisdiction of the Scottish FA will be subject to the SFAFAR and all regulations of the Scottish FA applicable to Football Agents. Only a FIFA Licensed Football Agent can perform Football Agent Services.

Football Agent Services through an Agency (SFAFAR Regulation 5.3)

A Football Agent may conduct their business affairs through an Agency but only a natural person can conduct Football Agent Services under a Representation Agreement. This means that the Football Agent must always (i) be a party to the Representation Agreement; and (ii) be the one performing the Football Agent Services. The Football Agent is also responsible for ensuring that their Agency and its staff are aware of, and fully comply with, the SFAFAR.

Representation Agreements (SFAFAR Regulation 6)

A Football Agent can only perform Football Agent Services for a Client after entering into a written Representation Agreement with that Client.

Representation Agreements that were concluded prior to 16 December 2022, and which expire on or after 1 January 2024, will remain valid until they expire and it is understood that those Representation Agreements will not be subject to new rules no matter when the transaction takes place. However, any new Representation Agreements or renewals of existing Representation Agreements concluded after 16 December 2022 must comply with the SFAFAR as from 1 January 2024.

Any Representation Agreement from 16 December 2022 onwards must be in writing and contain:

- the names of the parties;
- the duration;
- the amount of the commission due to the agent;
- the nature of the services to be provided; and
- the parties' signatures.

The maximum duration of a Representation Agreement with an individual, i.e. a Player/Coach, is two years. A Representation Agreement between a club and a Football Agent is not subject to a maximum duration.

A Football Agent can only execute one Representation Agreement with the same Individual at any one time. Prior to entering into a Representation Agreement with a Client, agents will have to (a) inform the individual in writing that they should consider taking independent legal advice in relation to the Representation Agreement; and (b) obtain the individual's written confirmation that they have either obtained or decided not to take such independent legal advice.

Multiple/Dual Representation (SFAFAR Regulation 6)

Multiple Representation, i.e. where a Football Agent represents more than two parties in a transaction is not permitted. Furthermore, a Football Agent cannot represent a releasing club and any other party to a transaction.

Dual Representation is permitted, but only on the basis that the Football Agent represents an individual and the engaging club in a transaction, and with the prior written consent of both Clients.

Representation of Minors (SFAFAR Regulation 7)

Football Agents are prohibited from approaching a minor or their legal guardian any earlier than six months before the minor reaches the age where they may sign their first professional contract, which in Scotland is currently 16 years old. A Football Agent must obtain written consent from the minor's legal guardian before making any approach to the minor in question. Furthermore, football agents shall not receive a commission for the representation of a minor, unless the relevant player is signing their first or subsequent professional contract.

Before representing a minor or a club in a transaction involving a minor, Football Agent must first successfully complete the designated CPD course on minors and comply with any applicable

requirement(s) under the law of Scotland to represent a minor, including (without limitation) the Disclosure (Scotland) Act 2020.

Service Fee (SFAFAR Regulation 8)

No service fee cap is applied under the SFAFAR. Furthermore, it should be noted that in accordance with the terms of SFAFAR Regulation 8.4: “Where the Football Agent and the Client agree in the Representation Agreement that a service fee (either by way of lump sum or by instalments) is to be paid in respect of a Transaction to which these Regulations apply, it shall be calculated on the basis of the player/coach’s Remuneration as set out in the employment contract concluded by the player/coach in respect of which he was represented by the Football Agent.”

Disclosure of Information (SFAFRA Regulation 9.2)

Football Agents must ensure that all information and documentation detailed under SFAFRA Regulation 9.2(j) is submitted by email to the Scottish FA (agents@scottishfa.co.uk) within the specified timescales. Such information/documentation must also be uploaded to the FIFA Platform to ensure compliance with the FFAR.

Should you have questions in relation to the FFAR, the SFAFAR or the contents of this Explanatory Note, please contact agents@scottishfa.co.uk

22 December 2023