

Football in Focus

Welcome

to the third edition of our newsletter, *Football in Focus*, brought to you by the sports law team at James Chapman & Co.

This issue is dedicated to the revised FIFA Regulations which will come into force this summer. If you require a copy of these Regulations, please contact us at football@james-chapman.co.uk



The Revised FIFA Regulations — A step in the right direction?

After much consultation, the revised FIFA Regulations for the Status and Transfer of Players have finally been published by FIFA. As FIFA had committed itself to an early review of the Regulations, these revised Regulations have been in the pipeline ever since the last version came into force on 1st September 2001. FIFA has now confirmed that the revised Regulations shall enter into full force and effect on 1st July 2005.

The new Regulations reflect a refinement of the September 2001 Regulations with many of the problems being rectified without, however, diluting what FIFA considers to be the five cornerstone principles of the Regulations:

- (i) protection of minors;
- (ii) training compensation for young players;
- (iii) the solidarity mechanism;
- (iv) the maintenance of contractual stability principles and
- (v) the dispute resolution system.

There has also been a 'sweep up' exercise to incorporate the provisions of the numerous FIFA Circular letters and ancillary regulations which were issued to supplement the 2001 Regulations.

Solidarity and Training Compensation

It is clear that progress has been made in the latest version of the Regulations. FIFA has now confirmed which aspects of the Regulations are binding at a national level and which are not. For example, it was previously unclear whether the solidarity mechanism was applicable on domestic transfers. The revised Regulations now expressly confirm for the first time that solidarity is *not* applicable on domestic transfers. This will not however affect cases currently before FIFA as these will continue to be assessed according to the 2001 Regulations. Therefore the jurisprudence of the Dispute Resolution Chamber must still be considered in existing cases to see if solidarity has been properly paid (the key DRC decision being from 22nd July 2004 on this issue).

Training compensation and solidarity remain in force solely at an international level. The wording which governs the application of these principles has been improved and some clarifications have been provided (for example, when calculating training compensation for the ages of 12 and 15, the number of years of training which is properly

capped at Category 4, has been confirmed as four years and not three years). The indicative amounts for training compensation remain at the levels set in Circular No. 826 although they shall be reviewed every calendar year.

It is now expressly confirmed that solidarity is payable on contingent transfer fee payments and within 30 days of the date of the contingent payment. There is also confirmation of the actual percentage deduction to be made from the overall fee. It is also noted that training compensation is to be excluded when calculating the solidarity deduction and thus savings in solidarity can potentially be made.

Despite these clarifications, there is still some uncertainty in how calculations are approached. Indeed, there is still no express detail on how partial years of training are to be dealt with or how to establish whether a player's training has terminated early. Further, the obligation to deal with both training compensation and solidarity remains firmly on the new club despite the argument that it is more practical that the selling club and/or national associations actually deal with the mechanics of training compensation and solidarity

Domestic Transfer Regulations

The revised Regulations require each national association to submit a set of domestic transfer regulations to FIFA for approval before 30th June 2007. These domestic regulations must incorporate all those matters which are stated as binding at a national level. In addition, certain other aspects must be "foreseen" and "considered", such as the principle that contracts can be terminated early for just cause and sporting just cause. There must also be appropriate rules for the settlement of disputes and a system to reward the investment in the training and education of players. It remains unclear exactly what "foreseen" and "considered" mean in this context; whether this will make more principles binding at a national level or not.

Sporting Just Cause

The principle of "sporting just cause", whereby a player may unilaterally terminate his contract without sanction, has been refined. It now applies only to "established players" who have not appeared in 10% of a club's official matches (as defined). The reference to "established players" is clearly a restriction on the application of the principle but no definition of what constitutes an "established player" has been provided and each case will continue to be considered on its own facts. The Regulations indicate that the principle is only binding within the context of an international transfer, although its non-applicability at a domestic level is not certain because FIFA may hear cases involving a dispute between an English club and

a foreign player and as such, FIFA may seek to apply the principle. Case law is awaited which will hopefully provide some clarity.

Transfer Registration Periods

Transfer registration periods remain binding at a national level. There is however greater flexibility to allow a player to make two transfers in the same calendar year if his contract has been terminated by mutual consent prior to the commencement of the second registration period (the player's new registration can however only take place in a transfer window).

Player Approach Rules

The rules on player approaches have again been revised but some potential confusion remains. It appears that clubs and players can negotiate without the consent of the player's current club, if the player's current club has been informed and provided there is no intention to induce a breach of contract. However, a club and player can only enter into a 'pre-contract' where there is six months or less left to run on his current contract. This rule is still divergent from that which operates domestically in the FA Premier League and Football League and clubs must therefore ensure they are complying with the appropriate rule each time they approach a player.

Release of Players for International Duty

The rules on the release of players for international matches remain annexed to the Regulations and there have been few changes. In particular, FIFA has, perhaps not unsurprisingly,

refused to concede the point that clubs should be compensated for the release of players. There has been one good practical concession, in that a player who is injured does not have to travel back to his national association for a medical examination and it can now take place in the territory of the national association of his club.

Summary

Overall, the revised Regulations are welcomed as they represent an improvement on the previous edition. That said, uncertainties remain and it is understood that FIFA expects the jurisprudence of the DRC to fill in any gaps and answer the outstanding questions. Clearly, the Regulations are here to stay and the better clubs understand them the better equipped they will be to protect their interests in their players and related compensation rights. Furthermore, clubs need to be aware of the rules on approaches and the liabilities which shall accrue if they register players from foreign national associations.

The above represents a brief summary of some of the major changes to the Regulations and if further information is required, please do not hesitate to contact us.

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We have a dedicated team of sports law specialists here at James Chapman & Co. Both Edward Canty and Matthew Bennett have considerable expertise in the world of football. They have advised the FA Premier League, many FA Premier League and Football League Clubs as well as individual footballers in all aspects of sports law. They also have experience in handling cases before the FIFA Dispute Resolution Chamber, Players' Status Committee and the Court of Arbitration for Sport.

If you would like to discuss any issues featured in *Football in Focus*, or any other football related issues which we may be able to assist you with, You can get in touch with either Edward or Matthew on:

0161 828 8000 or football@james-chapman.co.uk

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