

EXPLANATORY MEMORANDUM TO

Banning Orders (Prescribed Persons) Order (Northern Ireland) 2011

SR 2011 No. 405

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Justice to accompany the above-named Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under section 48 (1) and (2) of the Justice Act (Northern Ireland) 2011 and is subject to the negative resolution procedure.

2. Purpose

The Statutory Rule specifies persons to whom each football banning order, and each order terminating a football banning order, is to be copied by the court. It forms part of the administrative arrangements needed to support the police's enforcement of football banning orders.

3. Background

- 3.1 Chapter 4 of Part 4 of the Justice Act (Northern Ireland) 2011 enables a court which finds a person guilty of a relevant offence to make a banning order against the person. Such an order prohibits the person from attending regulated football matches for a period set by the court. Regulated matches are specified in Schedule 3 to the 2011 Act. In brief, they cover internationals and matches played in Northern Ireland by clubs comprising the top two leagues under the aegis of the Irish Football Association and the Football Association of Ireland.
- 3.2 For enforcement purposes, section 48(1)(b) of the 2011 Act requires the appropriate officer of the court that makes a banning order to send a copy of it to the Chief Constable "and to any prescribed person". "Prescribed" means specified in an order made by the Department of Justice (sections 48(4) and 108). Section 48 also lays down similar copying requirements for any court order terminating a banning order before its specified term elapses (section 48(2)(b)).
- 3.3 The purpose of copying banning orders and terminating orders is to ensure that those with roles contributing to the enforcement of banning orders are properly informed. Though the police will have the formal responsibility of enforcing banning orders, they will also look to the match organisers themselves for assistance in identifying anyone who appears at a regulated match in breach of a banning order.
- 3.4 The Department has therefore specified in its Prescribed Persons Order the Chief Executive of the Irish Football Association Limited and the Chief Executive of Derry City Council (which owns and operates the Brandywell, home ground of Derry City Football Club). The IFA will in turn copy

banning orders to relevant clubs, and Derry City Council will copy them to Derry City Football Club.

4. Consultation

The Department has consulted with the IFA and Derry City Council and both are content to be cited in the Statutory Rule. The Department of Culture, Arts and Leisure is also content with the Statutory Rule.

5. Equality Impact

Equality aspects were covered in detail when the Bill which became the 2011 Act was considered by the Assembly. The majority of football supporters are males from the protestant / unionist community, and the Department believes that the limited number of banning orders that it anticipates will be imposed are likely to impact predominantly on them. However, the Department believes that banning orders will have a beneficial impact in terms of public safety, crime prevention and social inclusion for all groups under section 75 of the Northern Ireland Act 1998. The Department is therefore content that the Order will contribute to the promotion of equality.

6. Regulatory Impact

The regulatory impact of the Statutory Rule on the IFA and Derry City Council will depend partly on the number of banning orders made by the courts. Forecasting this is difficult, but the Department is preparing on the initial assumption that no more than 30 orders will be in force at any one time and that it will take four years to reach that figure. Following consultation with the Association and the Council, the Department believes that the administrative burden on them will be manageable. The Department anticipates that the advantage of banning orders to football as a spectator sport, in terms of helping to deter bad behaviour by fans and hopefully to attract more fans, will be considerable.

7. Financial Implications

There will be minimal cost implications for the Courts in copying and posting copies of banning orders to the IFA and Derry City Council.

8. Section 24 of the Northern Ireland Act 1998

The Statutory Rule has been carefully assessed against the provisions of section 24, and the Department believes it complies with them.

9. EU Implications

Not applicable.

10. Parity or Replicatory Measure

There are slightly different enforcement structures for Great Britain, reflecting the need for police forces there to co-ordinate their enforcement activities. In England and Wales, co-ordination is achieved through a Football Banning Orders Authority (FBOA). Under the Football Spectators Act 1989, banning orders and termination orders must be copied to the FBOA and to any other prescribed person. Only the Chief Executive of the

Football Association Ltd is a prescribed person for these purposes.
Equivalent arrangements exist in Scotland.

11. Additional Information

Not applicable