

SCHEDULES

SCHEDULE 3

FOOTBALL BANNING ORDERS AND FOOTBALL-RELATED CONSEQUENTIAL AMENDMENTS

PART 1

FOOTBALL BANNING ORDERS

Introductory

- 1 The Football Spectators Act 1989 (c. 37) is amended as follows.

Banning orders: bail conditions

- 2 (1) In section 14A (banning orders on conviction of an offence), after subsection (4B) insert—
- “(4BA) If the court adjourns or further adjourns any proceedings under subsection (4A) or (4B), the court may remand the offender.
- (4BB) A person who, by virtue of subsection (4BA), is remanded on bail may be required by the conditions of his bail—
- (a) not to leave England and Wales before his appearance before the court, and
 - (b) if the control period relates to a regulated football match outside the United Kingdom or to an external tournament which includes such matches, to surrender his passport to a police constable, if he has not already done so.”

(2) In subsection (4C) of that section, omit “But” and after “a warrant” insert “under subsection (4B) above”.

(3) In section 14B (banning orders on a complaint), after subsection (4) insert—

“(5) If the magistrates' court adjourns proceedings on an application under this section, the court may remand the person in respect of whom the application is made.

(6) A person who, by virtue of subsection (5) above, is remanded on bail under section 128 of the Magistrates' Courts Act 1980 may be required by the conditions of his bail—

 - (a) not to leave England and Wales before his appearance before the court, and
 - (b) if the control period relates to a regulated football match outside the United Kingdom or to an external tournament which includes such

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matches, to surrender his passport to a police constable, if he has not already done so.”

Appeals against decisions not to make banning orders

- 3 (1) In section 14A (banning order made on conviction for an offence), after subsection (5) insert—

“(5A) The prosecution has a right of appeal against a failure by the court to make a banning order under this section—

- (a) where the failure is by a magistrates' court, to the Crown Court; and
- (b) where it is by the Crown Court, to the Court of Appeal.

(5B) An appeal under subsection (5A)(b) may be brought only if the Court of Appeal gives permission or the judge who decided not to make an order grants a certificate that his decision is fit for appeal.

(5C) An order made on appeal under this section (other than one directing that an application be re-heard by the court from which the appeal was brought) is to be treated for the purposes of this Part as if it were an order of the court from which the appeal was brought.”

- (2) In section 14D (appeals against banning orders made on complaint), after subsection (1) insert—

“(1A) An appeal lies to the Crown Court against the dismissal by a magistrates' court of an application for the making of a banning order under section 14B above.”

- (3) In subsection (2) of that section, for “the appeal” substitute “an appeal under this section”.

Applications for banning orders under section 14B

- 4 (1) In section 14B (banning orders made on a complaint)—
- (a) for subsection (1) substitute—

“(1) An application for a banning order in respect of any person may be made by—

- (a) the relevant chief officer, or
- (b) the Director of Public Prosecutions,

if it appears to him that the condition in subsection (2) is met.”;

- (b) after subsection (1) insert—

“(1A) In subsection (1) ‘the relevant chief officer’ means—

- (a) the chief officer of police of any police force maintained for a police area; or
- (b) the chief constable of the British Transport Police Force.”

- (2) In section 21B(4) (summary measures: reference to a court), for “the chief officer of police for the area in which the person resides or appears to reside” substitute “the relevant chief officer”.

Notification obligations under banning orders

- 5 (1) Section 14E (banning orders: general) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) A banning order must require the person subject to the order to give notification of the events mentioned in subsection (2B) to the enforcing authority.
- (2B) The events are—
- (a) a change of any of his names;
 - (b) the first use by him after the making of the order of a name for himself that was not disclosed by him at the time of the making of the order;
 - (c) a change of his home address;
 - (d) his acquisition of a temporary address;
 - (e) a change of his temporary address or his ceasing to have one;
 - (f) his becoming aware of the loss of his travel authorisation;
 - (g) receipt by him of a new travel authorisation;
 - (h) an appeal made by him in relation to the order;
 - (i) an application made by him under section 14H(2) for termination of the order;
 - (j) an appeal made by him under section 23(3) against the making of a declaration of relevance in respect of an offence of which he has been convicted.
- (2C) A notification required by a banning order by virtue of subsection (2A) must be given before the end of the period of seven days beginning with the day on which the event in question occurs and—
- (a) in the case of a change of a name or address or the acquisition of a temporary address, must specify the new name or address;
 - (b) in the case of a first use of a previously undisclosed name, must specify that name; and
 - (c) in the case of a receipt of a new travel authorisation, must give details of that travel authorisation.”

(3) In subsection (3) (under which a banning order must, unless there are exceptional circumstances, impose a requirement as to the surrender of the passport of the subject) omit “, unless it appears to the court that there are exceptional circumstances,”.

(4) Omit subsection (4) (where exceptional circumstances exist court must state in open court what they are).

(5) After subsection (7) insert—

“(8) In this section—

 - ‘declaration of relevance’ has the same meaning as in section 23;
 - ‘home address’, in relation to any person, means the address of his sole or main residence;
 - ‘loss’ includes theft or destruction;
 - ‘new’ includes replacement;

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‘temporary address’, in relation to any person, means the address (other than his home address) of a place at which he intends to reside, or has resided, for a period of at least four weeks.”

- (6) In relation to times before the commencement of section 39(2) of the Identity Cards Act 2006 (c. 15), the references to a travel authorisation in subsections (2B) and (2C) of section 14E of the Football Spectators Act 1989 (c. 37) shall have effect as references to a passport.
- (7) Sub-paragraphs (3) and (4) apply—
- (a) to a banning order made after the commencement of those sub-paragraphs; and
 - (b) for the purposes of any appeal falling to be determined after the commencement of those sub-paragraphs.

Duration of banning orders

- 6 In section 14F(5) (duration of banning orders), for “three” substitute “five” and for “two” substitute “three”.

Notices during control periods

- 7 In section 19 (functions of enforcing authority and local police), after subsection (2E) (b) insert—
- “(c) must require him to notify the enforcing authority within the time period specified in the notice of each address at which he intends to stay, or has stayed, for one night or more in a period which is the control period in relation to a regulated football match.”

Deemed receipt of notices and other documents

- 8 (1) In section 25 (service of documents), after subsection (1) insert—
- “(1A) A notice or other document served in accordance with subsection (1) on a person who is the subject of a banning order is to be deemed to be received by him at the time when it is served unless he proves otherwise.”
- (2) In section 21(7) (service of notices under section 19), after “subsection (6) above” insert “(instead of section 25(1A))”.

New relevant offence

- 9 (1) In paragraph 1 of Schedule 1 (offences), in sub-paragraphs (c), (k) and (q) after “under section” insert “4A or”.
- (2) An offence is not a relevant offence by virtue of sub-paragraph (1) if it was committed before the commencement of this paragraph.